

**West Bengal Tea Development
Corporation Ltd.**

Request for Proposal (RFP) for
Transfer of Tea Gardens under
West Bengal Tea Development
Corporation Limited

RFP No. 01 Dated 03 November 2014

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GLOSSARY

Associate

For Bidding Company or the Lead Consortium Member of a Bidding Consortium, those entities would be termed “Associate(s)” in which the Promoter(s) of the Bidding Company / Lead Consortium Member:

Hold(s) not less than 50% of the voting rights, either directly or indirectly, and the relevant entity being termed as an Associate, as such, is a Company validly incorporated under the prevailing laws in India or equivalent laws in a foreign country. Holding an indirect stake in a Company implies a stake held in the Company through a chain of other Companies, in which event, the percentage holding would be considered on proportionate terms.

Bidder

Bidding Company or Bidding Consortium, as defined below.

Bidding Company

If the bid for the Project is made by a single corporate entity, it shall be referred to as a Bidding Company.

Bidding Consortium

If the bid for the project is made by more than one corporate entity, then the group of corporate entities making the bid shall be referred to as a Bidding Consortium.

Bidding Documents

West Bengal Tea Development Corporation Limited (WBTDCL) shall receive Bids pursuant to this RFP in accordance with the terms set forth in this RFP and other documents to be provided by WBTDCL pursuant to this RFP, as modified, altered, amended and clarified from time to time by WBTDCL (collectively the “**Bidding Documents**”).

Bid Due Date

Last day of Submission of Bid as specified in the Data Sheet.

Bid Security

A Bidder is required to deposit, along with its Bid, a bid security amount, as specified in the Data Sheet (the “Bid Security”), refundable not later than 60 (sixty) days from the Bid Due Date, except in the case of the Selected Bidder whose Bid Security shall be retained till it has paid the entire consideration to WBTDCL in terms of this Bidding Documents. The Bidders will have to provide Bid Security in the form of a bank guarantee issued by a Scheduled Commercial Bank in India, and be in the format provided in Appendix VII in the name of “West Bengal Tea Development Corporation Limited” payable in Kolkata. The validity period of the bank guarantee, shall not be less than 180 (One Hundred and Eighty) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days, and may be extended as may be mutually agreed between WBTDCL and the Bidder from time to time. The Bid shall be summarily rejected if it is not accompanied by the Bid Security.

Bid Stage

WBTDCCL has adopted a single-stage two-envelope process (collectively referred to as the “Bidding Process”) for selection of the Bidder for award of the Project. The single stage will include the “Qualification Stage” wherein the interested parties/ Consortia will be evaluated in accordance with the provisions of the technical criteria and qualification criteria as specified in Section 1.4 of the RFP Document. The applicants who will qualify in the technical criteria will be evaluated on the financial bids.

Business Transfer Agreement (BTA)

As defined in Clause 1.2 (x)

Conflict of Interest

As defined in Clause 7.8.

Consortium Member

Each corporate entity in the bidding Consortium with minimum equity stake of 10% shall be referred to as a Consortium Member.

Data Sheet

“Data Sheet” means an integral part of the Instructions to Bidders that is used to reflect specific assignment conditions to supplement, but not to over-write, the provisions of this RFP Document.

Damages

As defined in Clause 7.8.

GoWB

Government of West Bengal

Lead Consortium Member (LCM)

In case of a Bidding Consortium, the Lead Consortium Member shall be the Consortium Member that (i) has an interest of at least 51% in the Consortium, (ii) has been appointed the authorized representative of the Bidding Consortium, (iii) is the principal in- charge of the Project, and (iv) meets the requirements set forth under Appendix VIII of the Request for Proposal (RFP) document in terms of the Joint Bidding Agreement between the Consortium Members.

Lease Deed

As defined in Clause 1.2 (x)

LOI

Letter of Intent as defined in Clause 3.4.1.

Project

As specified in Clause 1.2 (iv).

Re. or Rs. or INR

The official currency of the Republic of India

Reserve Price

As defined in Clause 3.3.5

RFP or Request for Proposals

The current document issued to the Bidders, asking for their technical expertise and financial capability and financial offers.

Selected Bidder

As defined in Clause 3.3.3, the qualified bidder quoting the highest Financial Bid shall be the Selected Bidder

The words and expressions beginning with capital letters and defined in this document shall, unless repugnant to the context, have the meaning ascribed thereto herein.

DISCLAIMER

The information contained in this Request for Proposal document (the “RFP”) or subsequently provided to the Bidder(s), whether verbally or in documentary or any other form by or on behalf of West Bengal Tea Development Corporation Limited, Government of West Bengal (for short “WBTDCL”), any Tea Estates or any of their employees or advisors, is provided to the Bidder(s) on the terms and conditions set out in this RFP and such other terms and conditions subject to which such information is provided.

This RFP is not an agreement and is neither an offer nor invitation by WBTDCL to the prospective bidders or any other person. The purpose of this RFP is to provide interested parties with information that may be useful to them in making their bids pursuant to this RFP. This RFP includes statements, which reflect various assumptions and assessments arrived at by WBTDCL. Such assumptions, assessments and statements do not purport to contain all the information that each Bidder may require. This RFP may not be appropriate for all persons, and it is not possible for WBTDCL, its employees or advisors to consider the investment objectives, financial situation and particular needs of each party who reads or uses the bidding documents. The assumptions, assessments, statements and information contained in this RFP may not be complete, accurate, adequate or correct. Each Bidder should, therefore, conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments, statements and information contained in this RFP and obtain independent advice from the appropriate sources.

Information provided in this RFP to the Bidder(s) is on a wide range of matters, some of which may depend upon interpretation of law. The information given is not intended to be an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. WBTDCL accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on law expressed herein.

WBTDCL, its employees and advisors make no representation or warranty and shall have no liability to any person, including any Bidder under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this RFP or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of this RFP and any assessment, assumption, statement or information contained therein or deemed to form part of this RFP or arising in any way for participation in this bid stage.

WBTDCL also accepts no liability of any nature whether resulting from negligence or otherwise howsoever caused arising from reliance of any Bidder upon the statements contained in this RFP.

WBDCL may in its absolute discretion, but without being under any obligation to do so, update, amend or supplement the information, assessment or assumptions contained in this RFP.

The issue of this RFP does not imply in any way that the WBDCL is bound to make sale to the Selected Bidder (as defined in clause 1.2.2) and WBDCL reserves the right to reject all or any of the Bidders or bids without assigning any reason whatsoever.

The Bidder shall bear all its costs associated with or relating to the preparation and submission of its bid including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by WBDCL or any other costs incurred in connection with or relating to its bid. All such costs and expenses will remain with the Bidder and WBDCL shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by a Bidder in preparation or submission of the bid, regardless of the conduct or outcome of the bidding process.

In particular, WBDCL shall not be responsible / liable for any latent or evident defect or character of the tea gardens or its title or any other related aspect including but not limited to the following:

- i. Soil quality;
- ii. Quality and quantity of the tea produced;
- iii. All statutory permissions from various authorities;
- iv. All applicable rent, rates, duties, cess and taxes, if any;
- v. All applicable statutory laws and provisions;
- vi. Technical and financial feasibility of the Project

Any character or requirement of the garden information, which may be deemed to be necessary by the Bidder should be independently established and verified by the Bidder.

1 INTRODUCTION

1.1 BACKGROUND

West Bengal Tea Development Corporation Limited (WBDCL) is a wholly owned undertaking of the Government of West Bengal. WBDCL has been promoted by the Government of West Bengal through Commerce and Industries Department and incorporated as a Public Limited Company under the Companies Act, 1956 and as a Government Company in terms of Sec. 617 of the Companies Act, 1956 on 4th August 1976.

Government of West Bengal (GoWB) plays a very vital role in development and control of Tea Industry in West Bengal. As a nodal agency of the Government, the Commerce & Industries Department coordinates and monitors the entire activities of the tea gardens of West Bengal in association with Tea Board, various Tea Associations, Labour Department of the Government of West Bengal, Land & Land Reforms Department of Govt. of West Bengal.

The principle objectives of WBDCL are as under.-

- To rejuvenate the Tea Industry in the State by assisting sick and closed tea gardens;
- To safe guard the future of Tea Industry by avoiding concentration of ownership of tea gardens in a few hands;
- To protect the interest of workers etc.

Presently WBDCL has been managing 5 tea gardens across Darjeeling and Dooars as detailed below.-

- i. Darjeeling Region
 - a. Rangroon Tea Estate, P.O.Ghoom, Dist. Darjeeling
 - b. Pandam Tea Estate, P.O. & Dist. Darjeeling
 - c. Rungmook/Cedars Tea Estate, P. O. Sonada, Dist. Darjeeling
- ii. Dooars Region
 - a. Hilla Tea Estate, P.O.Nagrakata, Dist. Jalpaiguri
 - b. Mohua Tea Estate, P.O. Hasimara, Dist. Alipurduar

Government of West Bengal, in the public interest, in line with its policy of revival and restructuring of organizations, rejuvenation of tea gardens and for protecting the interest of the workers, has decided to transfer the Tea Gardens presently managed by WBDCL without retrenchment of existing workforce, through a competitive and open bid process, in compliance with applicable laws, established norms, applicable guidelines of Government of India and the Finance Department, Government of West Bengal.

1.2 PROJECT DETAILS

- i. WBTDCL is managing 5 tea gardens spread across Darjeeling and Dooars Region (Jalpaiguri and Alipurduar) in West Bengal. Among these, three gardens namely Rungmook/Cedars (Approx. Grant Area: 708.26 hectares), Rangaroon (Approx. Grant Area: 142.66 hectares) and Pandam (Approx. Grant Area: 381.56 hectares) are located in Darjeeling district in West Bengal and the other two namely Hilla (Approx. Grant Area: 664.10 hectares) and Mohua (Approx. Grant Area: 98.38 hectares) are located in the Dooars region in the Jalpaiguri and Alipurduar districts respectively in West Bengal.
- ii. WBTDCL in a bid to revitalize the above mentioned gardens intends to transfer tea gardens to the Bidders/prospective buyers as the preferred mode of transaction.
- iii. Government of West Bengal in line with its policy of revival and restructuring of organizations, rejuvenation of tea gardens and for protecting the interest of the workers wishes to identify and conclude contract/s with appropriate strategic investor/s capable of such revival and restructuring at the best possible price.
- iv. WBTDCL is authorized to act on behalf of Government of West Bengal to carry out the process of transfer of business of the tea gardens as a going concern and grant of lease of the land comprising of the tea gardens through the GoWB (“**Project**”), in favour of the Selected Bidder.
- v. Bid Process for the Darjeeling gardens and the Dooars gardens are being conducted separately. For the Darjeeling gardens as mentioned in 1.2 (i), all the three gardens have been bundled into a single packet (Packet A) while the two at Dooars as mentioned in 1.2 (i) have been bundled into a separate single packet (Packet B) for the transaction. A Bidder will have the option of bidding for either of the two packets or both.
- vi. This Bidding Document pertains to 3 nos. of tea gardens at Darjeeling Region and 2 nos. of tea gardens at Dooars Region (across Jalpaiguri and Alipurduar Districts).
- vii. The Preliminary Information Memorandum (PIM) has been appended as an annexure to the RFP to the prospective bidders. The PIM will provide details about the gardens and factory/(ies) wherever present and the Bidder will use its own discretion while bidding for the packet/(s).
- viii. The statements and explanations contained in this RFP are intended to provide a proper understanding to the prospective bidders about the subject matter of this RFP and should not be construed or interpreted as limiting in any way or manner the scope of services of the Bidder /prospective bidder as specified in the Lease deed or WBTDCL’s rights to amend, alter, change, supplement or clarify any bidding document pursuant to this RFP or the terms thereof or herein contained. Consequently, any omissions, conflicts or contradictions in the bid documents including this RFP are to be noted, interpreted and applied appropriately to give effect to this intent, and no claims on that account shall be entertained by WBTDCL.

- ix. WBTDCCL shall receive bids pursuant to this RFP in accordance with the terms set forth in this RFP and other documents to be provided by WBTDCCL pursuant to this RFP (collectively the “Bidding Documents”), as modified, altered, amended and clarified from time to time by WBTDCCL, and all bids shall be prepared and submitted in accordance with such terms.
- x. The Selected Bidder who offers the highest Financial Bid, is otherwise qualified in terms of this document whose Technical Proposal is evaluated to be Technically Sufficient and who is issued a LOI by WBTDCCL would be granted lease of the tea gardens for a period of 30 years, renewable for another term of 30 years, on such terms and conditions and for such purpose as specified in the proforma Lease Deed (the “**Lease Deed**”) which is enclosed as Appendix XIV hereof. Such Lease will be granted by the Government of West Bengal in its Land and Land Reforms Department. The Selected Bidder is not required to pay any lease premium in respect of the tea gardens to the GoWB but the Selected Bidder will have to pay the yearly rent as fixed by the GoWB for the entire lease period. The same shall be paid by WBTDCCL directly to the GoWB out of the payment received from the Selected Bidder in terms of this RFP. Simultaneously with the execution of the Lease Deed by the GoWB in favour of the Selected Bidder in respect of a tea garden, WBTDCCL shall execute a Deed of Surrender in respect of such tea gardens in favour of the GoWB relinquishing their right title interest in such tea gardens in favour of the GoWB. Simultaneously with the execution of the Lease Deed, WBTDCCL will transfer its assets, work force etc. pertaining to the tea gardens on such terms and conditions as mentioned in proforma Business Transfer Agreement (“**the BTA**”). In case of Consortium, the SPV (defined herein below) incorporated by the consortium members, will be granted lease and BTA will be executed in favour of such SPV.
- xi. The Lease Deed and the BTA are hereinafter collectively referred to as the Agreements.
- xii. It is pertinent to mention herewith that all liability, debt, of WBTDCCL including claims of the employees, statutory authorities, tax authorities, if any etc. pertaining to the tea gardens till the date of handing over possession of the tea gardens or within 15 (fifteen) days from the date of intimation of handing over possession of the tea gardens (deemed handing over), whichever is earlier shall be borne by WBTDCCL and the Selected Bidder shall not be liable for the same. However, all liability pertaining to the tea gardens from the date of such handing over or deemed handing over shall be borne by the Selected Bidder.
- xiii. Bidders are informed that the GoWB in its land and Land Reforms Department has promulgated a Tea Tourism Policy by its Memo No. 3362-LP/5M-10/2012 dated 17th July, 2013. In terms of such policy, individual tea gardens were allowed to exploit tourism potential subject *inter alia* to the following conditions :
- i. The tea garden company must be willing to undertake tea tourism.
 - ii. Land meant for tea tourism will be restricted to 5 acres.
 - iii. In the plains civil construction shall be done in an area not exceeding 1.5 acres while in hills it will be limited to only 1 acre. The remaining

area should be kept open for landscaping and other beautification works.

- iv. No land under actual tea plantation is to be used for tea tourism and under no circumstances area under tea plantation should be reduced.
 - v. Any new civil construction will have to be done under the technical guidance and vetting of an Expert Committee of engineers and architects to be selected by the Tourism Department in consultation with Tea Associations and the Tea Board. The civil construction will be eco- friendly and buildings so constructed will be limited to two-stories. The projects should be self-contained in terms of water and sanitation and should not result in additional loads on the environment.
- xiv. The Selected Bidder will have to employ the existing workforce, subject to the consent of such employee on terms and conditions not less favourable than terms of their present engagement. However, in the event of any employee employed by WBTDCL opting out, the Government of West Bengal in consultation with WBTDCL, if deems fit and proper to do so, utilize his/her services, by way of deployment or derailment in any Government Offices or in any other Company, Corporation, Undertaking, Statutory Body, Board etc., and during such deployment or derailment all the terms and conditions of service shall remain with such entity.

1.3 **BIDDING PROCESS**

Bidding process, as aforesaid shall be a single-stage two envelope process. The first envelope shall contain the documents for satisfaction of eligibility criteria i.e. the Qualification Bid (as defined in clause 1.4.1) while the second envelope shall contain the Financial Bid/(s) (as defined in clause 1.5) being offered by the Bidders. Each of the two envelopes shall be sealed before submission by the Bidder, and put inside a third sealed envelope.

1.4 **QUALIFICATION BID**

- 1.4.1. The Qualification Bid (the “Qualification Bid”) shall be submitted in the formats specified in Appendices hereof. The eligibility criteria are as mentioned below.
- 1.4.2. Any company incorporated in India, consortium of such companies may participate in the bid except Government of West Bengal Undertakings/ Enterprises/ PSU’s/ autonomous bodies who are ineligible from participating in the bid.
- 1.4.3. In the event the Bidder is a consortium, it has to comply with the following requirements:-
 - a. The number of members of the consortium should not be more than 3.
 - b. The members of the consortium shall enclose a duly executed Joint Bidding Agreement (the “Joint Bidding Agreement”) in the format given in Appendix VIII hereof which shall inter alia set forth the respective shares of the members of the consortium to contribute to the financial obligations of the

consortium and shall nominate one of its members (acting through a named officer) to represent such consortium before WBTDCL through a Power of Attorney signed by all the members of the consortium as per the format given in Appendix VI hereof.

- c. In the event the consortium is the Selected Bidder, the consortium must incorporate itself as a Company registered under the Companies Act, 2013 or limited liability partnership under the Limited Liability Partnership Act, 2008 prior to grant of lease in favour of such incorporated company/LLP (SPV). In addition, the members of the consortium will have to enter into prescribed form of Deed of Adherence agreeing to be bound by and responsible to WBTDCL for fulfillment of the terms and conditions of such lease on behalf of such company/LLP.
- d. No change in the composition of the consortium is allowed subsequent to the submission of the bid or during the bidding process or till payment of entire Financial Bid amount by the Selected Bidder (in case the Selected Bidder is a consortium).

1.4.4. **Financial Capacity:** A Bidder must be financially sound and the minimum Net Worth (as defined in clause 1.4.4.1) of the Bidder as on the last date of the financial year 2013 – 2014 shall not be less than the Financial Capacity criteria (the “Financial Capacity”) as specified in Appendix I: Data Sheet of the Project hereof.

1.4.4.1. For the purpose of this RFP, “Net Worth” shall mean as follows:-

- a. In case of a Bidding Company, the sum of subscribed and paid up equity and reserves from which shall be deducted the sum of revaluation reserves, miscellaneous expenditure not written off, reserves not available for distribution to equity shareholders and any redeemable or convertible preference shares; or
- b. In case of a consortium, the Net Worth criteria will be applied on the combined Net Worth of all the members of the consortium provided that Net Worth of the lead member constitutes at least 51% of such combined Net Worth.
- c. The Qualification Bid has to be accompanied by original certificate of Net Worth as per format given in Appendix X hereof and signed by the statutory auditor of the Bidder (and in case of a consortium, of all the members of the consortium) certifying the Net Worth of the Bidder in clear and unambiguous terms in the said format specified in Appendix X.
- d. WBTDCL’s determination of such Net Worth through its transaction advisors shall notwithstanding what is certified as aforesaid, be finally conclusive and binding. In case of doubt, the matter will be referred to the Finance Department of Government of West Bengal.

1.4.5. **Technical Capacity:** The Bidder or in case of a Consortium, the Lead Consortium Member shall have experience of possessing and/or managing tea gardens in India or abroad in the last 5 years.

- 1.4.6. The Bidder or in case of a Consortium, the Lead Consortium Member and the Other Consortium Member(s), if applicable, has to provide an undertaking in its own letterhead stating that there are no dues towards Employees' Provident Fund till the date of issue of the RFP, which are admittedly payable but have not been paid and has to furnish a scanned copy of the challan for submission of PF for March 2014.
- 1.4.7. The Bidder or in case of a Consortium, the Lead Consortium Member and the Other Consortium Member(s), if applicable, has to provide a declaration stating that there are no liabilities (in terms of loans and accrued interest) with Tea Board of India, which are in default.
- 1.4.8. The Qualification Bid will also be accompanied by copies of audited annual report of the Bidder (or in the case of a Consortium, all the members of the Consortium), for last 3 (three) financial years, namely 2011 – 2012, 2012 – 2013 and 2013 – 2014.
- 1.4.9. Qualification Bid shall be submitted in triplicate (one original and two photocopies) in an envelope superscribed "Qualification Bid" containing the documents referred to in the Appendix XIII. One copy shall be marked as Original and the other two as Copy. In case of any discrepancies between the Original and the Copy, the Original shall prevail.

1.5 **FINANCIAL BID**

The Financial Bid/(s) (the "Financial Bid") shall be submitted in 1 (one) copy in the format specified in Appendix XI on the Bidder's letterhead in a sealed envelope for each packet (in case a Bidder opts to bid for both the packets, two separate financial bids have to be submitted). The envelope/(s) containing the Financial Bid/(s) shall be superscribed as given below

"Financial Bid for [Darjeeling/ Dooars] Gardens"-CONFIDENTIAL

NOT TO BE OPENED BEFORE <bid due date as per the schedule specified in Appendix I: Data Sheet of the Project hereof>" (Financial Bids of all Bidders shall be opened in front of all the present and qualified bidders)

The authorized signatory of the Bidder shall be given the power to rectify clerical errors in the financial bid, if any so that it does not have a material impact on the financial bid submitted originally.

This sealed envelope shall be enclosed along with the sealed envelope containing the Qualification Bid (this envelope shall be superscribed "Qualification Bid") in a larger outer sealed envelope. This outer envelope containing both the Qualification Bid and the Financial Bid/(s) shall be superscribed with the name of the Project as specified in Appendix I: Data Sheet of the Project hereof and also the name and contact details of the Bidder/ lead member of the consortium.

Format for Financial Bid is shown in the Appendix XI.

1.6 **BIDDING SCHEDULE**

Sl. No.	Event Description	Date
1.	Last date for procuring the RFP Document through payment of Bid Document Cost	10 th December 2014
2.	Pre-Bid Meeting Pre Garden Visit	24 th November 2014
3.	Garden Visit	26 th November-3 rd December 2014 (itinerary to be intimated later)
4.	Last date for receiving queries	5 th December 2014
5.	Pre-Bid Meeting Post Garden Visit	8 th December 2014
6.	WBTDCL response to queries latest by	12 th December 2014
7.	Bid Due Date/ Last Date of Bid Submission	17 th December 2014
8.	Opening of Qualification and Technical Bids	17 th December 2014
9.	Opening of Financial Bids	22 nd December 2014
10.	Issue of Letter of Intent (LOI)	5 th January 2015
11.	Validity of Bids	180 days from the Bid Due Date

2 INSTRUCTION TO BIDDERS

2.1 TERMS OF BIDDING

- i. No Bidder shall submit more than one Bid for the Project. A Bidder bidding individually or as a member of a Consortium shall not be entitled to submit another bid either individually or as a member of any Consortium, as the case may be.
- ii. Information Memorandum of the Project is being provided only as a preliminary reference document by way of assistance to the Bidders who are expected to carry out their own surveys, investigations and other detailed examination of the Project before submitting their Bids. Nothing contained in the Information Memorandum shall be binding on WBTDCL nor confer any right on the Bidders, and WBTDCL or its employees or its consultants shall have no liability whatsoever in relation to or arising out of any or all contents of the Information Memorandum.
- iii. Notwithstanding anything to the contrary contained in this RFP, the documents forming part of the bidding process leading to the signing of Agreements shall be relied upon and interpreted in the following order of priority provided, however, that any conditions or obligations imposed on the Bidder hereunder shall continue to have effect in addition to its obligations under the Agreements. The order of priority is as follows:
 - a. Agreements
 - b. LOI
 - c. Bid
 - d. Addendum/Corrigendum to the RFP
 - e. RFP
 - f. Information Memorandum
- iv. The Financial Bid shall be furnished in the format at Appendix-XI and clearly indicate the bid amount to be paid to WBTDCL, and be signed by the Bidder's authorized signatory. In the event of any difference between figures and words, the amount indicated in words shall be taken into account.
- v. The Financial Bid shall be payable by the Selected Bidder to WBTDCL as per the terms and conditions of this RFP and the provisions of the Lease Deed.
- vi. A Bidder shall have to deposit, along with its Bid, a bid security amount, as specified in the Data Sheet (the "Bid Security"), refundable not later than 60 (sixty) days from the Bid Due Date, except in the case of the Selected Bidder whose Bid Security shall be retained till it has paid the entire consideration to WBTDCL in terms of this Bidding Documents. The Bidders will have to provide Bid Security in the form of a bank guarantee issued by a Scheduled Commercial Bank in India, and

be in the format provided in Appendix VII in the name of “West Bengal Tea Development Corporation Limited” payable in Kolkata. The validity period of the bank guarantee, shall not be less than 180 (One Hundred and Eighty) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days, and may be extended as may be mutually agreed between WBTDCL and the Bidder from time to time. The Bid shall be summarily rejected if it is not accompanied by the Bid Security.

- vii. In case the Bidder is a single company, the Bidder shall submit a Power of Attorney as per the format at Appendix V, authorizing the signatory of the Bid to commit the Bidder.
- viii. In case the Bidder is a Consortium, the Members thereof shall furnish a Power of Attorney in favor of the Lead Member of such Consortium in the format at Appendix VI.
- ix. Any condition or qualification or any other stipulation contained in the Bid shall render the Bid to be liable for rejection as a non-responsive Bid.
- x. The Bid and all communications in relation to or concerning the Bidding Documents and the Bid, shall be in English language.
- xi. The documents including this RFP and all attached documents, provided by WBTDCL are and shall remain the property of WBTDCL and are transmitted to the Bidders solely for the purpose of preparation and the submission of a Bid in accordance herewith. Bidders are to treat all information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their Bid. The provisions of this Clause 2.1.1 (xi) shall also apply mutatis mutandis to Bids and all other documents submitted by the Bidders, and WBTDCL will not return to the Bidders any Bid, document or any information provided along therewith.
- xii. This RFP is not transferable.
- xiii. Any award of LOI and execution of Agreements pursuant to this RFP shall be subject to the terms of Bidding Documents.

2.2 CHANGE IN COMPOSITION OF THE CONSORTIUM

Change in the composition of Consortium will not be permitted by WBTDCL during the Bid Stage and till signing of the Agreements.

2.3 CHANGE IN OWNERSHIP

The Selected Bidder or the SPV, in case of consortium, will not be allowed to change its shareholding till completion of 2 years from the date of signing of Agreements without the approval of Department of Commerce and Industry.

2.4 COST OF BIDDING

The Bidders shall be responsible for all of the costs associated with the preparation of their bids and their participation in the bidding process. WBTDCL will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the bidding process. The cost of procuring the bid documents is specified in the Appendix I: Data Sheet of the Project.

2.5 SITE VISIT AND VERIFICATION OF INFORMATION

2.5.1. Bidders shall submit their respective bids after visiting the site(s) and ascertaining for themselves the site(s) conditions, location, surroundings, climate, availability of power, water and other utilities for management of tea gardens, access to site, emergency medical needs, applicable laws, applicable permits and regulations, and any other matter considered relevant by them. The Bidders will have to satisfy themselves of the business prospects in the subject area. No compensation, claim or damages will be entertained by WBTDCL in this regard.

2.5.2. It shall be deemed that by submitting a bid, the Bidder has:-

- a. made a complete and careful examination of the bidding documents;
- b. received all relevant information requested from WBTDCL;
- c. acknowledged and accepted the risk of inadequacy, error or mistake in the information provided in the bidding documents or furnished by or on behalf of WBTDCL relating to any of the matters referred to in clause 2.5.1 above;
- d. satisfied itself about all matters, things and information including matters referred to in clause 2.5.1 hereinabove necessary and required for submitting an informed bid, execution of the Project in accordance with the bidding documents and performance of all of its obligations thereunder;
- e. acknowledged and agreed that inadequacy, lack of completeness or incorrectness of information provided in the bidding documents or ignorance of any of the matters referred to in clause 2.5.1 hereinabove shall not be a basis for any claim for compensation, damages, extension of time for performance of its obligations, loss of profits etc. from WBTDCL, or a ground for termination of the Lease Deed; and
- f. agreed to be bound by the terms of the RFP document, the undertakings provided by it under and in terms hereof.

2.5.3. WBTDCL shall not be liable for any omission, mistake or error on the part of the Bidder in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to the bidding documents including the RFP or the bidding process, including any error or mistake therein or in any information or data given by WBTDCL.

2.6 RIGHT TO ACCEPT AND TO REJECT ANY OR ALL BIDS

2.6.1. WBTDCL reserves the right to verify all statements, information and documents submitted by the Bidder in response to this RFP or the bidding documents and the

Bidder shall, when so required by WBTDC, make available all such information, evidence and documents as may be necessary for such verification. Any such verification or lack of such verification, by WBTDC shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of WBTDC thereunder.

2.6.2. WBTDC reserves the right to reject any bid and appropriate the bid security if:-

- a. at any time, a material misrepresentation is made or uncovered, or
- b. the Bidder does not provide, within the time specified by WBTDC, supplemental information sought by WBTDC for evaluation of the bid.

Such misrepresentation/ improper response shall lead to the disqualification of the Bidder. If the Bidder is a consortium, then the consortium shall be disqualified / rejected. If such disqualification / rejection occurs after the bids have been opened and the highest bidder gets disqualified / rejected, then WBTDC reserves the right to:-

- a. proceed with the remaining qualified bidders in accordance with clauses 3.3.4 or
- b. take any such measure as may be deemed fit in the sole discretion of WBTDC, including annulment of the bidding process.

2.6.3. In case it is found during the evaluation or at any time before signing of the Lease Deed or after its execution and during subsistence thereof, that 1 (one) or more of the eligibility criteria have not been met by the Selected Bidder or the Selected Bidder has made material misrepresentation or has given any materially incorrect or false information, the Bidder shall be disqualified forthwith if not yet granted a lease and if the Bidder has already been issued a LOI (as defined in clause 3.4.1) or has entered into the Lease Deed, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this RFP, be liable to be terminated/forfeited, by a communication in writing by WBTDC to the Bidder whereupon WBTDC shall be entitled to reenter into and upon the property, without WBTDC being liable in any manner whatsoever to the Bidder, as the case may be. In such an event, WBTDC shall also forfeit and appropriate the bid security as damages, which sum is agreed to be a genuine pre-estimate of damages (as defined in clause 7.8), without prejudice to any other right or remedy that may be available to WBTDC under the bidding documents and/or the Lease Deed or otherwise.

2.7 **CONTENTS OF THE RFP**

2.7.1. This RFP comprises the Disclaimer set forth hereinabove, the contents as listed below, and will additionally include any addenda issued in accordance with Clause 2.9.

Invitation for Bids

Section1. Introduction

Section2. Instructions to Bidders

Section3. Evaluation of Bids

Section4. Fraud and Corrupt Practices

Section5. Site Visit and Pre-Bid Conference

Section6. Miscellaneous

Section7. Other Terms and Conditions

Appendices

- I. Data Sheet
- II. Preliminary Information Memorandum
- III. Covering Letter
- IV. General Information of the Bidder
- V. Power of Attorney for Single Bidder
- VI. Power of Attorney for Lead Member of Consortium
- VII. Bank Guarantee for Bid Security
- VIII. Joint Bidding Agreement
- IX. Technical Capacity of the Bidder
- X. Financial Capacity of the Bidder
- XI. Format of Financial Bid
- XII. Statement of Legal Capacity
- XIII. Qualification Bid Checklist
- XIV. Proforma Lease Deed
- XV. Proforma Business Transfer Agreement
- XVI. Undertaking and Challan for PF Submission

2.7.2. The draft Lease Deed, and the Agreements provided by WBTDCL as part of the Bid Documents shall be deemed to be part of this RFP.

2.8 **CLARIFICATION**

- i. Bidders requiring any clarification on the RFP may notify WBTDCL in writing or speed post or by fax and e-mail. Address, fax and email id have been specified in the Data Sheet. They should send in their queries on or before the date mentioned in the Schedule of Bidding Process specified in Section 1.6 . Should WBTDCL deem it necessary to amend the RFP as a result of a request for clarification, it shall do so following the procedure as prescribed herein.
- ii. WBTDCL shall endeavor to respond to the questions raised or clarifications sought by the Bidders. However, WBTDCL reserves the right not to respond to any question or provide any clarification, in its sole discretion, and nothing in this

Clause shall be taken or read as compelling or requiring WBTDCCL to respond to any question or to provide any clarification.

- iii. WBTDCCL may also on its own motion, if deemed necessary, issue interpretations and clarifications to all Bidders. All clarifications and interpretations issued by WBTDCCL shall be deemed to be part of the Bidding Documents. Verbal clarifications and information given by WBTDCCL or its employees or representatives shall not in any way or manner be binding on WBTDCCL.

2.9 **AMENDMENT OF RFP**

- 2.9.1. At any time prior to 5 (five) days before the deadline for submission of bids, WBTDCCL, if it deems fit and proper, may, for any reason, whether at its own initiative or in response to clarifications requested by a Bidder, modify the RFP by the issuance of addenda/corrigenda.
- 2.9.2. WBTDCCL shall not be obliged to respond to request for clarifications received from individual Bidders. It shall however organize a pre-bid conference for giving answers/clarifications to question/queries considered relevant and which are received by WBTDCCL up to the date of such pre-bid conference. Such written questions may be sent to the Designated Officer (as specified in Appendix I: Data Sheet of the Project hereof) by post/ email/ fax with the subject line “Queries for Transfer of Tea Gardens under WBTDCCL.” In addition to such written questions received by WBTDCCL, WBTDCCL reserves its right to answer other questions raised at such pre-bid conference and answer such of them as are considered relevant. Answers or clarifications to queries, if any will be uploaded on the website of the Government of West Bengal (www.banglarmukh.gov.in/portal/banglarMukh/Documents/Tenders), the website of the Finance Department of the Government of West Bengal (<http://www.wbfin.nic.in/>) and the website of West Bengal Industrial Development Corporation (<http://www.wbidc.com/>)
- 2.9.3. Any addendum/corrigendum issued shall be uploaded on the website of the Government of West Bengal (www.banglarmukh.gov.in/portal/banglarMukh/Documents/Tenders), the website of the Finance Department of the Government of West Bengal (<http://www.wbfin.nic.in/>) and the website of West Bengal Industrial Development Corporation (<http://www.wbidc.com/>).
- 2.9.4. In order to afford the Bidders a reasonable time for taking an addendum/ corrigendum into account, or for any other reason, WBTDCCL may, at its own discretion, extend the bid due date by issuing Addendum/Corrigendum.

2.10 **LANGUAGE**

The bid and all related correspondence and documents in relation to the bidding process shall be in English language. Supporting documents and printed literature furnished by the Bidder with the bid may be in any other language provided that they are accompanied by translations of all the pertinent passages in the English language, duly authenticated and certified by the issuing

authority or by the Translation Departments of the High Courts/ Supreme Court of India/ any other government department/ agency. Supporting materials, which are not translated into English, may not be considered. For the purpose of interpretation and evaluation of the bid, the English language translation shall prevail.

2.11 FORMAT AND SIGNING OF BID

- 2.11.1. The Bidder shall provide all the information sought under this RFP. WBTDCL will evaluate only those bids that are received in the required formats and complete in all respects. Incomplete and/or conditional bid shall be liable to be rejected.
- 2.11.2. The bid shall be typed or written in indelible ink and signed by the authorised signatory of the Bidder who shall also initial each page, in blue ink. In case of printed and published documents, only the cover shall be initialed. All the alterations, omissions, additions or any other amendments made to the bid shall be initialed by the person(s) signing the bid.
- 2.11.3. The following conditions shall be adhered to while submitting the bid:-
 - a. the Bidder should attach clearly marked and referenced continuation sheets in the event that the space provided in the prescribed formats is insufficient. Alternatively, the Bidders may format the prescribed formats making due provision for incorporation of the requested information; and
 - b. information supplied by the Bidder (or constituent members if the Bidder is a consortium) must apply to the Bidder, member or associate named in the bid and not, unless specifically requested, to other associated companies or firms;

2.12 BID DUE DATE

- 2.12.1. Bids should be submitted at the office of Designated Officer (as specified in Appendix I: Data Sheet of the Project hereof) within the bid due date as specified in Appendix I: Data Sheet of the Project hereof. A receipt of bid submission should be obtained from his office.
- 2.12.2. WBTDCL may, in its sole discretion, extend the bid due date by issuing an appropriate notice in this regard at any time prior to the Qualification Bid opening date and even after the previous bid due date being so extended.

2.13 LATE BIDS

No Bid shall be submitted in any manner whatsoever beyond the Bid Due Date. Bids received by WBTDCL after the specified time on the bid due date shall not be eligible for consideration and shall be summarily rejected. Any communication/request from prospective bidders will not be entertained regarding late submission of bids to maintain the sanctity of the bidding process since ample time is provided to the Bidders for bid submission.

2.14 **CONTENTS OF THE BID**

- 2.14.1. The Qualification Bid shall be furnished in the formats provided in the Appendices hereof. For documents to be included in the Qualification Bid, refer to the checklist in the Appendix XIII.
- 2.14.2. The Financial Bid for each packet shall be furnished in the format provided in Appendix XI hereof and shall consist of the quotation of the Financial Bid offered by the Bidder. The Bidder shall specify the Financial Bid (both in figures and words) which shall be payable in accordance with this RFP and the provisions of the Agreements.
- 2.14.3. The Project will be awarded to the highest bidder, provided that the Bidder is otherwise qualified as per the eligibility criteria and whose bid is found to be otherwise satisfactory, acceptable and sufficient by WBTDCL.
- 2.14.4. The opening of bids and the bidding process may be conducted by WBTDCL substantially in accordance with this RFP. WBTDCL may involve its transaction advisors and their consultants for assistance in conducting the bid process.

2.15 **REJECTION OF BIDS**

- 2.15.1. Notwithstanding anything contained in this RFP, WBTDCL reserves the right to reject any bid and to annul the bidding process and to reject all bids at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reason whatsoever. In the event that WBTDCL rejects or annuls all the bids, it may, in its discretion, invite all eligible Bidders to submit fresh bids hereunder.
- 2.15.2. WBTDCL reserves the right to cancel at any time and not to proceed with the bidding process at any time, without notice or liability, and to reject any bid without assigning any reasons in public interest and without any financial liability.

2.16 **VALIDITY OF BIDS**

The bids shall be valid for a period of not less than 180 (one hundred and eighty) days from the bid due date. The validity of bids may be extended by mutual consent of the respective Bidders and WBTDCL.

2.17 **CORRESPONDENCE WITH THE BIDDER**

Save and except as provided in this RFP, WBTDCL shall not entertain any correspondence with any Bidder in relation to acceptance or rejection of any bid.

2.18 **BID SECURITY**

- 2.18.1. The Bidder shall furnish as part of its bid, a bid security amount, as specified in the Data Sheet (the "Bid Security"), refundable not later than 60 (sixty) days from the Bid Due Date, except in the case of the Selected Bidder whose Bid Security

shall be retained till it has paid the entire consideration to WBTDCL in terms of this Bidding Documents. The Bidders will have to provide Bid Security in the form of a bank guarantee issued by a Scheduled Commercial Bank in India, and be in the format provided in Appendix VII in the name of “West Bengal Tea Development Corporation Limited” payable in Kolkata. The validity period of the bank guarantee, shall not be less than 180 (One Hundred and Eighty) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days, and may be extended as may be mutually agreed between WBTDCL and the Bidder from time to time.

- 2.18.2. Any bid not accompanied by the bid security shall be rejected by WBTDCL as non-responsive.
- 2.18.3. For Bidders who do not meet the eligibility criteria as per clause 1.4, the bid security will be returned by WBTDCL, without any interest, within 15 days of issue of LOI (as defined in clause 3.4.1) or when the bidding process is cancelled by WBTDCL, as the case may be. The bid security of the otherwise unsuccessful bidders will be returned by WBTDCL, without any interest, within 30 (thirty) days of issue of LOI (as defined in clause 3.4.1) to the Selected Bidder or when the bidding process is cancelled by WBTDCL, as the case may be.
- 2.18.4. The Selected Bidder’s bid security will be returned, without any interest, within 7 days of full payment of the Financial Bid in accordance with the provisions thereof and provided that the Bidder is otherwise not in breach of the terms hereof. However, in case WBTDCL decides to annul the process or decides to invite fresh bids for the Project, the Selected Bidder’s bid security and payments till then made by the Selected Bidder would be returned to the Selected Bidder without any interest within 30 (thirty) days of such a decision being made, provided that the Selected Bidder is otherwise not in breach of any of the terms and conditions herein contained.
- 2.18.5. WBTDCL shall be entitled to forfeit and appropriate the bid security as damages inter alia in any of the events specified in clause 2.18.6 herein below. The Bidder, by submitting its bid pursuant to this RFP, shall be deemed to have acknowledged and confirmed that WBTDCL will suffer loss and damage on account of default by the Bidder during the bid validity period. No relaxation of any kind on bid security shall be given to any Bidder.
- 2.18.6. The bid security shall be forfeited and appropriated by WBTDCL as damages without prejudice to any other right or remedy that may be available to WBTDCL under the bidding documents and/or the Agreements, or otherwise, under the following conditions:-
 - a. If a Bidder submits a non-responsive bid;
 - b. If a Bidder engages in a corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice as specified in clause 4 of this RFP;

- c. If a Bidder withdraws its bid during the period of bid validity as specified in this RFP or as extended by mutual consent of the respective Bidder(s) and WBTDCL;
 - d. In the case of Selected Bidder, if it fails within the specified time limit:-
 - i. to sign and return the duplicate copy of LOI (as defined in clause 3.4.1);
 - ii. to make full payment of the Financial Bid;
 - iii. to sign the Agreements;
 - iv. in case of a consortium, upon failure to incorporate the consortium as a company/ LLP
 - e. If the Bidder is declared disqualified in terms of clause 7.8
 - f. If the Bidder is otherwise in breach of the terms of this RFP.
- 2.18.7. In the Original copy of the Qualification Bid, the bid security bank guarantee document should be submitted in a plastic jacket, which should be bound with the rest of the Original copy of the Qualification Bid. For the other two copies of the Qualification Bid that a Bidder also needs to submit, photocopies of the bid security bank guarantee may be submitted.

3 EVALUATION OF BIDS

3.1 OPENING AND EVALUATION OF BIDS

- 3.1.1. WBTDCL shall open the Qualification Bids of all Bidders, whose bids are received prior to bid due date on a date to be informed to such Bidders, who have paid the bid document cost and have intimated complete details of communication and in the presence of the Bidders who choose to attend.
- 3.1.2. WBTDCL will subsequently examine and evaluate the Qualification Bid. WBTDCL may, as aforesaid, involve its transaction advisors and their consultants for such purpose.
- 3.1.3. To facilitate evaluation of the Qualification Bid, WBTDCL may, at its sole discretion, seek clarifications in writing from any Bidder regarding its Qualification Bid.

3.2 TESTS OF RESPONSIVENESS

- 3.2.1. Prior to evaluation of the Qualification Bid, WBTDCL shall determine whether each bid is responsive to the requirements of this RFP. A bid shall be considered responsive only if:-
 - a. it is received as per the formats given in Appendix IV, X and XI hereof;
 - b. it is received by the bid due date including any extension thereof pursuant to clause 2.12.2;
 - c. it is signed, sealed, hard bound and marked as stipulated in clauses 2.11.1, 2.11.2 and 2.11.3;
 - d. it is accompanied by the bid security as specified in clause 2.18;
 - e. it is accompanied by the appropriate Power(s) of Attorney as per the formats given in Appendix V and Appendix VI hereof;
 - f. it contains all the information (complete in all respects) as requested in this RFP and/or bidding documents (in formats same as those specified);
 - g. it does not contain any condition or qualification;
 - h. it is accompanied by the Joint Bidding Agreement (for consortium), specific to the Project, as per the format given in Appendix VIII hereof; and
 - i. it is not otherwise non-responsive in terms hereof.
- 3.2.2. WBTDCL reserves the right to reject any bid which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by WBTDCL in respect of such bid.

3.3 SELECTION OF BIDDERS

- 3.3.1. Subject to the provisions of clause 2.15.1, the Bidders adjudged as responsive in terms of clause 3.2.1 and fulfilling the eligibility criteria as set forth in clause 1.4 shall be declared as the qualified bidders. The list of qualified bidders will also be uploaded on the website of the Government of West Bengal (www.banglarmukh.gov.in/portal/banglarMukh/Documents/Tenders), the website of the Finance Department of the Government of West Bengal (<http://www.wbfin.nic.in/>) and the website of West Bengal Industrial Development Corporation (<http://www.wbidc.com/>).
- 3.3.2. The Financial Bid/(s) of only the qualified bidders who have been so intimated shall be opened. Financial Bid/(s) of the Bidders who are not qualified will not be opened. Only the qualified bidders shall be invited for opening of the Financial Bid/(s).
- 3.3.3. The qualified bidder quoting the highest Financial Bid shall be declared as the **Selected Bidder**. In case the Selected Bidder decides to withdraw from the bid process, WBTDCL shall forfeit its bid security in accordance with clause 2.18.6. In such circumstances, the Bidder, who has submitted second highest Financial Bid, shall be asked to match the Financial Bid of the Selected Bidder. If such Bidder, agrees to match the Financial Bid of the Selected Bidder, LoI will be issued to such Bidder, subject of his fulfilling all the terms and conditions of this RFP. In the event the second highest bidder does not match the highest Financial Bid, a fresh bid will be invited by WBTDCL. Upon such withdrawal by the Selected Bidder, the Selected Bidder shall also not be eligible to participate in any tender or RFP issued by WBTDCL or any department under Government of West Bengal for a period of 2 (two) years from the date of such failure.
- 3.3.4. In the event the Financial Bids of 2 (two) or more qualified bidders are the same (the "Tie Bidders"), WBTDCL shall hold an auction amongst such Tie Bidders only and shall declare such of them who has offered the highest price in such auction to be the highest bidder. Bidders' representatives who choose to attend the Financial Bid opening should therefore be duly authorized to participate in such auction. In the event a Tie Bidder is not represented on the Financial Bid opening date or the authorized representative of such Bidder does not or is unwilling to participate in such auction, the auction would be held amongst the remaining Tie Bidders and if there be only one remaining Tie Bidder, the latter will be declared as the highest bidder provided that such remaining Tie Bidder offers a higher price than that already offered in its Financial Bid. In the event the highest bidder withdraws or is not declared as the Selected Bidder, WBTDCL may invite fresh bids for the Project.
- 3.3.5. Prior to opening of the Financial Bids and after submission of bids by prospective bidders, a Reserve Price (the "**Reserve Price**") will be decided. However, under exceptional circumstances WBTDCL may at its own discretion subject to approval from Finance Department accept bids under the Reserve Price and accordingly choose the Selected Bidder. The Reserve Price will not be fixed before the Bidders submit their Financial Bids. Since the Reserve Price will be fixed after submission of bids, the concerned authority, while fixing the Reserve Price shall not have knowledge of the Financial Bids received, thus

ensuring that the fixing of the Reserve Price is not influenced by such knowledge. The transaction advisors will not finalize the Reserve Price, to prevent any conflict of interest. All Bidders are provided comfort accordingly.

3.4 ISSUANCE OF LOI AND PAYMENT DETAILS

- 3.4.1 After selection of the Selected Bidder, a letter of intent (for short “**LOI**”) to such Selected Bidder shall be issued, in duplicate, by WBTDCL and the Selected Bidder shall, within 7 (seven) days of the receipt of the LOI, sign and return the duplicate copy of the LOI in acknowledgement thereof along with the 1st installment payment of 10% of the Financial Bid by way of Demand Draft (payable in Kolkata) in favour of the Payee, as specified in Appendix I: Data Sheet of the Project hereof. In the event the duplicate copy of the LOI duly signed by the Selected Bidder along with the 1st installment payment is not received by the stipulated date, WBTDCL may appropriate the bid security of such Bidder as damages on account of failure of the Selected Bidder to accept the LOI, and WBTDCL may invite fresh bids for the Project.
- 3.4.2. The Selected Bidder must pay the balance 90% of the Financial Bid in two instalments as detailed below:-
- i. 2nd instalment payment of 20% of the Financial Bid by way of Demand Draft (payable in Kolkata) in favour of the Payee, as specified in Appendix I: Data Sheet of the Project hereof, within 30 (thirty) days of the date of the LOI.
 - ii. 3rd instalment payment of 70% of the Financial Bid by way of Demand Draft (payable in Kolkata) in favour of the Payee, as specified in Appendix I: Data Sheet of the Project hereof, within 10 (ten) days of intimation of handing over of possession of the tea garden.

Bidders are made aware that WBTDCL will require upto 90 (ninety) days from the date of the LOI to issue such letter of intimation. However, such time frame may be extended by WBTDCL subject to a maximum period of 180 (one hundred eighty) days from the date of the LOI.

Failure to make payment of any instalment within the stipulated time period will lead to cancellation of the LOI, forfeiture of the bid security as well as forfeiture of any earlier instalment payment(s) made by the Selected Bidder. Upon such failure, the Selected Bidder shall also not be eligible to participate in any tender or RFP issued by WBTDCL or any Department under the Government of West Bengal for a period of 2 (two) years from the date of such failure. No extension of time will be granted to the Selected Bidder to make payment of any instalment and no such request in this regard will be entertained.

3.5 EXECUTION OF THE AGREEMENTS

- 3.5.1. Within the time period as specified in Appendix I: Data Sheet of the Project hereof, provided that all amounts to be paid by the Selected Bidder are received

in the meantime, Government of West Bengal in its Land and Land Reforms Department shall execute a Lease Deed following the procedure laid down in 3.5.2. hereof. As and when the tea gardens are ready to be handed over, WBTDCL shall by a letter in writing shall request the Selected Bidder or the SPV, in case of a consortium, to obtain possession of the tea gardens within 15 days from the date of the letter subject to payment being made in terms this RFP. Subject to payment being received from the Selected Bidder, the physical possession shall be handed over by WBTDCL to the Selected Bidder within the time stipulated in the letter of intimation of handing over possession. If such possession is not taken over, subject to the receipt of payment by WBTDCL, possession shall be deemed to be taken over on expiry of 15 days from the date of intimation of the handing over possession of the tea gardens.

- 3.5.2. Within the time period as specified in Appendix I: Data Sheet of the Project hereof, the Selected Bidder will send to WBTDCL the Lease Deed of the said tea gardens duly filled in and completed in the form contained in Appendix XIV hereof for verification by WBTDCL. Within 30 days of receipt thereof, WBTDCL shall send to the Selected Bidder the duly approved Lease Deed (with or without appropriate modifications) for being stamped and made ready for execution and registration. The Bidder will, after getting the document stamped, arrange for registration of the same upon its execution by GoWB in its Land and Land Reforms Department and itself, within 15 days of receipt of the document from WBTDCL. All obligations of the Bidder contained in this RFP shall commence on the date possession is handed over to it or upon expiry of 15 (fifteen) days from the date of intimation of handing over possession by WBTDCL to the Selected Bidder, whichever is earlier, irrespective of date of execution of Lease Deed. Failure to have Lease Deed executed and registered within the time aforesaid will be considered to be a breach of the terms of the lease.
- 3.5.3. WBTDCL shall simultaneously execute the BTA in favour of the Selected Bidder.
- 3.5.4. From such date of handing over possession or deemed date of handing over possession, the Selected Bidder shall be liable to pay all rates and taxes and other outgoings in respect of the same. The Government of West Bengal or WBTDCL will have no liability in respect of the said tea garden from such date.
- 3.5.5. Upon execution and registration of the Lease Deed, the lease will be deemed to commence on the date the Selected Bidder is handed over possession of the tea gardens or upon expiry of 15 (fifteen) days from the date of intimation of handing over possession by WBTDCL to the Selected Bidder, whichever is earlier.

3.6 CONTACTS DURING BID EVALUATION

Bids shall be deemed to be under consideration immediately after they are opened and until such time WBTDCL makes official intimation of award/ rejection to the Bidders. While the bids are under consideration, Bidders and/ or their representatives or other interested parties are advised to refrain from contacting by any means, WBTDCL and/ or its employees/ representatives on matters related to the bids under consideration.

4 FRAUD AND CORRUPT PRACTICES

- 4.1. The Bidders and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the bidding process. Notwithstanding anything to the contrary contained herein, or in the LOI or the Lease Deed, WBTDCL may reject a bid, withdraw the LOI, or terminate the Lease Deed, as the case may be, without being liable in any manner whatsoever to the Selected Bidder, as the case may be, if it determines that the Selected Bidder, as the case may be, has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the bidding process. In such an event, WBTDCL shall be entitled to forfeit and appropriate the bid security as damages without prejudice to any other right or remedy that may be available to WBTDCL under the bidding documents and/or the Lease Deed, or otherwise.
- 4.2. Without prejudice to the rights of WBTDCL under clause 4.1 hereinabove and the rights and remedies which WBTDCL may have under the LOI or the Lease Deed, or otherwise if a Bidder, as the case may be, is found by WBTDCL to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the bidding process, or after the issue of the LOI or the execution of the Lease Deed, such Bidder shall not be eligible to participate in any tender or RFP issued by WBTDCL during a period of 2 (two) years from the date such Bidder, as the case may be, is found by WBTDCL to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practices, as the case may be.
- 4.3. For the purposes of this clause 4, the following terms shall have the meaning hereinafter respectively assigned to them:-
 - a. “corrupt practice” means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the bidding process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of WBTDCL who is or has been associated in any manner, directly or indirectly with the bidding process or the LOI or has dealt with matters concerning the Lease Deed or arising therefrom, before or after the execution thereof, at any time prior to the expiry of 1 (one) year from the date such official resigns or retires from or otherwise ceases to be in the service of WBTDCL, shall be deemed to constitute influencing the actions of a person connected with the bidding process);
 - b. “fraudulent practice” means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the bidding process;
 - c. “coercive practice” means impairing or harming, or threatening to impair or harm, directly or indirectly, any person or property to influence any person’s participation or action in the bidding process;
 - d. “undesirable practice” means (i) establishing contact with any person connected with or employed or engaged by WBTDCL with the objective of canvassing,

lobbying or in any manner influencing or attempting to influence the bidding process; or (ii) having a Conflict of Interest; and

- e. “restrictive practice” means forming a cartel or arriving at any understanding or arrangement among Bidders with the objective of restricting or manipulating a full and fair competition in the bidding process.

5 SITE VISIT AND PRE-BID CONFERENCE

- 5.1. The site visit and the pre-bid conference shall be held on a date/ dates to be informed as aforesaid. A maximum of 3 (three) representatives of each Bidder shall be allowed to attend the site visit and the pre-bid conference. The representatives of each Bidder should carry the receipt of payment of bid document cost in order to attend the site visit and the pre-bid conference.

6 MISCELLANEOUS

- 6.1. The bidding process shall be governed by, and construed in accordance with, the laws of India and the Courts at Kolkata, West Bengal alone shall have exclusive jurisdiction over all disputes arising under, pursuant to and/ or in connection with the bidding process.
- 6.2. WBTDCL, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to;
- a. suspend and/ or cancel the bidding process and/ or amend and/ or supplement the bidding process or modify the dates or other terms and conditions relating thereto;
 - b. consult with any Bidder in order to receive clarification or further information;
 - c. retain any information and/ or evidence submitted to WBTDCL by, on behalf of, and/ or in relation to any Bidder; or
 - d. independently verify, disqualify, reject and/ or accept any and all submissions or other information and/ or evidence submitted by or on behalf of any Bidder.
- 6.3. It shall be deemed that by submitting the bid, the Bidder agrees and releases WBTDCL, its employees, agents and advisors, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/ or performance of any obligations hereunder, pursuant hereto and/ or in connection herewith and waives any and all rights and/ or claims it may have in this respect, whether actual or contingent, whether present or future.
- 6.4. **No right to accrue**
- No right shall accrue in favour of the Selected Bidder, till execution of Lease Deed is made in favour of such Bidder after receipt of the amount as specified in the Financial Bid is received and the Bidder is otherwise not in breach of any of the terms and conditions herein contained.
- 6.5. **Compliance with applicable laws**
- The Selected Bidder during the subsistence of the Lease, while managing the tea gardens shall comply will all applicable laws including labor laws.

7 OTHER TERMS AND CONDITIONS

A Bidder shall abide by the following conditions. Failure to do so will lead to disqualification of a Bidder and forfeiture of the bid security:-

- 7.1. A Bidder shall submit only one bid for each packet either singly or as part of a consortium.
- 7.2. All forms must be signed by an authorised signatory of the Bidder and stamped with the rubber stamp of the Bidder/ lead member of the consortium.
- 7.3. A photocopy of the this RFP together with any subsequent addendum/ corrigendum/ clarifications issued by WBTDCL in this regard, duly initialed in token of its acceptance, on all pages with rubber stamp/seal of the Bidder/ lead member of the consortium must be returned with the Qualification Bid.
- 7.4. Disputes and differences arising out of or in connection with or relating to the interpretation or implementation or termination of the present RFP document, the bidding process, the adequacy or sufficiency of price, or the lease to be granted in favour of the Selected Bidder which cannot be settled by mutual negotiation within 60 (sixty) days, shall be referred to the sole arbitration of an Arbitrator to be appointed by the Additional Chief Secretary , Commerce and Industries Department of the Government of West Bengal. Such arbitration shall be held according to the provisions of the Arbitration and Conciliation Act, 1996 and any modification or reenactment thereto. The venue of the arbitration proceedings shall be at Kolkata and language of the arbitration shall be English. The arbitration award shall be final and binding upon the parties and the parties agree to be bound thereby and to act accordingly. When any dispute has been referred to arbitration, except for the matters in dispute, the parties shall continue to exercise their remaining respective rights and fulfill their remaining respective obligations.
- 7.5. Conditional or qualified bids will be treated as non-responsive.
- 7.6. WBTDCL reserves its right to waive non-substantial deviations without being bound to do so.
- 7.7. The bidding documents including this RFP and all attached documents are and shall remain the property of WBTDCL and are transmitted to the Bidders solely for the purpose of preparation and the submission of a bid in accordance herewith. Bidders are to treat all information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their bid. The provisions of this clause shall also apply mutatis mutandis to bids and all other documents submitted by the Bidders. WBTDCL will not return any bid or any information provided along therewith.
- 7.8. A Bidder or a Bidding Consortium shall not have a conflict of interest (“**Conflict of Interest**”) with another Bidder that affects the bidding process. Any Bidder or a Bidding Consortium found to have a Conflict of Interest shall be disqualified. In the event of disqualification, WBTDCL shall forfeit and appropriate the bid security of all such Bidders as mutually agreed genuine pre-estimated loss and damages likely to be suffered and incurred by WBTDCL and not by way of penalty for, *inter alia*, the time, cost and effort of WBTDCL, including consideration of such Bidder’s/ Bidding Consortium’s

proposal (the “**Damages**”), without prejudice to any other right or remedy that may be available to WBTDCL under the Bidding Documents and/ or the Agreements or otherwise. Without limiting the generality of the above, a Bidder/Bidding Consortium shall be deemed to have a Conflict of Interest with another Bidder that affects the bidding process, if:

- a. Such Bidder, its member or associate (or any constituent thereof) and any other Bidder, its member or associate (or any constituent thereof) have common controlling shareholders or other ownership interest; provided that this qualification shall not apply in cases where the direct or indirect shareholding of a Bidder, its member or an associate thereof (or any shareholder thereof having a shareholding of more than 5% [five per cent] of the paid up and subscribed share capital of such Bidder, member or associate, as the case may be), in the other Bidder(s), its member or associate is less than 5% (five per cent) of the paid up and subscribed equity share capital thereof; provided further that this disqualification shall not apply to any ownership by a bank, insurance company, pension fund or a public financial institution referred to in Section 4A of the Companies Act, 1956 or by the Central/ a State Government or their instrumentalities. For the purposes of this clause, indirect shareholding held through one or more intermediate persons shall be computed as follows: (aa) where any intermediary is controlled by a person through management control or otherwise, the entire shareholding held by such controlled intermediary in any other person (the “**Subject Person**”) shall be taken into account for computing the shareholding of such controlling person in the Subject Person; and (bb) subject always to sub-clause (aa) above, where a person does not exercise control over an intermediary, which has shareholding in the Subject Person, the computation of indirect shareholding of such person in the Subject Person shall be undertaken on a proportionate basis; provided, however, that no such shareholding shall be reckoned under this sub-clause (bb) if the shareholding of such person in the intermediary is less than 26% (twenty six percent) of the subscribed and paid up equity shareholding of such intermediary; or
- b. a constituent of a such Bidder is also a constituent of another Bidder; or
- c. such Bidder, its member or any associate thereof receives or has received any direct or indirect subsidy, grant, concessional loan or subordinated debt from any other Bidder, its member or associate, or has provided any such subsidy, grant, concessional loan or subordinated debt to any other Bidder, its member or associate; or
- d. such Bidder has the same legal representative as any other Bidder; or
- e. such Bidder or any associate thereof has a relationship with another Bidder or any associate thereof, directly or through common third parties, that puts them in a position to have access to each others’ information about, or to influence the bid of either or each of the other Bidder; or
- f. such Bidder has participated as a consultant to WBTDCL in the preparation of any documents, design or technical specifications of the Project.

Explanation:

In case a Bidder is a consortium, then the term Bidder as used in this clause, shall include each member of such consortium.

For purposes of this RFP, “**associate**” means, in relation to the Bidder/consortium member, a person who controls, is controlled by, or is under the common control with such Bidder/consortium member. As used in this definition, the expression “control” means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than 50% (fifty per cent) of the voting shares of such person, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person by operation of law.

- 7.9. A Bidder shall be liable for disqualification if any legal, financial or technical adviser of WBTDCL in relation to the Project is engaged by the Bidder in any manner for matters related to or incidental to the Project and which will affect the bidding process thereof.
- 7.10. A Bidder shall be liable for disqualification and forfeiture of Bid Security if any legal, financial or technical adviser of WBTDCL in relation to the Project is engaged by the Bidder, its Members or any Associate thereof, as the case may be, in any manner for matters related to or incidental to such Project during the Bidding Process or subsequent to the (i) issue of the LOI or (ii) execution of the Agreements. In the event any such adviser is engaged by the Selected Bidder or Concessionaire, as the case may be, after issue of the LOI or execution of the Agreements for matters related or incidental to the Project, then notwithstanding anything to the contrary contained herein or in the LOI or the Agreements and without prejudice to any other right or remedy of WBTDCL, including the forfeiture and appropriation of the Bid Security, which WBTDCL may have thereunder or otherwise, the LOI or the Agreements, as the case may be, shall be liable to be terminated without WBTDCL being liable in any manner whatsoever to the Selected Bidder or Concessionaire for the same. For the avoidance of doubt, this disqualification shall not apply where such adviser was engaged by the Bidder, its Member or Associate in the past but its assignment expired or was terminated 6 (six) months prior to the date of issue of RFP for the Project. Nor will this disqualification apply where such adviser is engaged after a period of 3 (three) years from the date of issue of LOI .
- 7.11. Any entity, including any entity controlled by such entity, which has been barred by the Government of India/Any State Government from participating in any tendering process or any project , and the bar subsists as on the date of Application, would not be eligible to submit a bid, either individually or as member of a Consortium. Any consortium having barred entity as its member will not be allowed to take part in the bidding process.
- 7.12. A Bidder including any Consortium Member or Associate should, in the last 3 (three) years, have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award against the Bidder, Consortium Member or Associate, as the case may be, nor has been expelled from any project or contract by any public entity nor have had any contract terminated any public entity for breach by such Bidder, Consortium Member or Associate.

APPENDICES

APPENDIX I: DATA SHEET

Sl. No.																
1	Name of Project: Transfer of Tea Gardens under West Bengal Tea Development Corporation Limited															
2	<p>Project Details:</p> <table border="1"> <thead> <tr> <th>Packet</th> <th>Name of the tea garden</th> <th>Grant Area (approx.. in Hectares)</th> </tr> </thead> <tbody> <tr> <td rowspan="3">Packet A – Darjeeling Tea Gardens</td> <td>Rungmook/Cedars Tea Estate</td> <td>708.26</td> </tr> <tr> <td>Rangaroon Tea Estate</td> <td>142.66</td> </tr> <tr> <td>Pandam Tea Estate</td> <td>381.56</td> </tr> <tr> <td rowspan="2">Packet B – Dooars Tea Gardens</td> <td>Mohua Tea Estate</td> <td>98.38</td> </tr> <tr> <td>Hilla Tea Estate</td> <td>664.10</td> </tr> </tbody> </table>	Packet	Name of the tea garden	Grant Area (approx.. in Hectares)	Packet A – Darjeeling Tea Gardens	Rungmook/Cedars Tea Estate	708.26	Rangaroon Tea Estate	142.66	Pandam Tea Estate	381.56	Packet B – Dooars Tea Gardens	Mohua Tea Estate	98.38	Hilla Tea Estate	664.10
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	Pandam Tea Estate	381.56														
Packet B – Dooars Tea Gardens	Mohua Tea Estate	98.38														
	Hilla Tea Estate	664.10														
3	Bid document cost: Rs. 60,000/- [Rupees Sixty Thousand only] for Packet A and Rs. 40,000/- [Rupees Forty Thousand only] for Packet B to be paid by way of Demand Draft (payable in Kolkata) in favour of the Payee, as specified below															
4	Amount of Bid Security: Rs. 60,00,000/- [Rupees Sixty Lakhs only] for Packet A and Rs. 40,00,000/- [Rupees Forty Lakhs only] for Packet B to be paid by way of Bank Guarantee issued by a Scheduled Commercial Bank in India and be in the format as provided in Appendix VII in the name of “West Bengal Tea Development Corporation Limited” payable in Kolkata.															
5	Name of Payee: West Bengal Tea Development Corporation Limited															
6	<p>Designated Officer:</p> <p>Managing Director, West Bengal Tea Development Corporation Limited SHYAMKUNJ, 12-B, Lord Sinha Road, 3rd Floor, Kolkata – 700071</p>															

	Phone No. : 033-2282 1284. Fax No. : 2282 4935 Email: webtea@vsnl.net								
7	<p>Eligibility Criteria</p> <p>Financial Capacity: Net Worth of at least Rs.2,50,00,000 /- (Rupees Two Crores Fifty Lakhs only) as on the last date of the financial year 2013-14 if the bidder opts to bid for Packet A. Net Worth of at least Rs.1,50,00,000 /- (Rupees One Crore Fifty Lakhs only) as on the last date of the financial year 2013-14 if the bidder opts to bid for Packet B. Net Worth of at least Rs.4,00,00,000 /- (Rupees Four Crores only) as on the last date of the financial year 2013-14 if the bidder opts to bid for Packet A and Packet B.</p>								
8	<p>Tentative schedule of bidding process</p> <table border="1"> <thead> <tr> <th>Event Description</th> <th>Date</th> </tr> </thead> <tbody> <tr> <td>Issue of RFP</td> <td>3rd November 2014</td> </tr> <tr> <td>Last date for receiving bid document cost</td> <td>10th December 2014 till 4 pm</td> </tr> <tr> <td>Bid due date and time</td> <td>17th December 2014 till 4 pm</td> </tr> </tbody> </table>	Event Description	Date	Issue of RFP	3 rd November 2014	Last date for receiving bid document cost	10 th December 2014 till 4 pm	Bid due date and time	17 th December 2014 till 4 pm
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9	<p>Time period for handing over of possession of said tea gardens to the Selected Bidder from the date of issue of the LOI: Within 90(ninety) days and may be extended by WBTDCL for a maximum period of 180 (one hundred eighty) days from the date of issue of the LOI.</p>								

APPENDIX II: PRELIMINARY INFORMATION MEMORANDUM

1. Garden Details

1.1. Garden Information

Darjeeling Tea Estates

1.1.1. Rungmook/Cedars Tea Estate

Background

Rungmook/Cedars Tea Estate, established in early 1920s, is located in lower SONADA II Panchayat area of the Darjeeling district of West Bengal. The altitude of the garden ranges from 1200 feet to >5000 feet above the mean sea level. The average annual rainfall over the past three years ranged from 440 to 645 cm.

The tea estate was acquired by WBTDC in April, 1981, with a lease tenure of 30 years. The Tea Estate is a member of Darjeeling Tea Association and Tea Research Association.

Area of the garden

The breakup of the grant area as per the official records of office of DM, Darjeeling is as under:

Exhibit: Break-up of grant area

	(in acres)	(in hectares)
Area under Tea	1023.52	414.38¹
Jungle	112.72	45.64
Jhora	190.48	77.12
Bamboos	31.16	12.62
Cardamom	114.87	46.51
Fallow land	14.88	6.02
Dried land	2.88	1.17
Labour Quarters	183.41	74.26
Road/Path	33.52	13.57
River	34.6	14.01
Bungalow/office	3.88	1.57
Factory	1.4	0.57
Play ground	1.88	0.76
Water tank + Land slide area	0.2	0.08
Total Grant Area	1749.4	708.26

Profile of Tea Area

The varieties of planting material used comprises of China/hybrids, Assam/hybrids and combod (Dangri Manipuri). The extent of area covered by these three varieties is as under.

¹ As per the records of the office of District Magistrate, Darjeeling (Touzi Section) [Memo No. 199/C.F-25/Tg./11 dated 13/10/2011] the grant area of the garden is **708.26 hectares** of which tea area is **414.38 hectares**. However as per the garden records as of September 2014, area under tea is **461.34 hectares**.

Exhibit: Summary status of Jat of Tea (Area in hectares)

Jat	Division					%
	Main	CMD	Upper	Cedars	Total	
China	9.31			7.84	17.15	4%
China/Hy	9.35		112.68	31.13	153.16	33%
Assam				51.69	51.69	11%
Assam/Hy	10.4	58.32		45.01	113.73	25%
Clonal	5.06			20.7	25.76	6%
Dangri Manipuri	26.49	18.28	22.08	33	99.85	22%
Total	60.61	76.6	134.76	189.37	461.34	

The vacancy level ranges from 10% to more than 40%. However, in 60% of total tea area, the vacancy is less than 20% and in only 1% of the area the vacancy level exceed 40%. The extent of tea area under different vacancy level is shown below.²

Exhibit: Vacancy Status (Area in hectares)

Vacancy%	Division					% to Total
	Main	CMD	Upper	Cedars	Total	
upto 10%	6.71		47.41	33.37	87.49	19%
11-15%	5.06	8.94	22.03	21.09	57.12	12%
16-20%	9.31	42.37	24.96	56.93	133.57	29%
21-25%	39.53	9.88	7.7	43.5	100.61	22%
26-30%		7.75	7.35	12.21	27.31	6%
31-40%		7.66	18.4	22.27	48.33	10%
>41%			6.91		6.91	1%
Total	60.61	76.6	134.76	189.37	461.34	

Production and Yield

More than 51% of the total production of the garden comes from Cedars Division. This low elevation division has mostly Assam and Combod varieties where as the Upper division with high elevation has mostly China jats.

	Unit	2011	2012	2013
Green Leaf Harvested	Kgs	679,222	656,473	551,170
Made Tea Production	Kgs	152,978	147,854	124,137
Factory Capacity ^{##}	Kg	200,000	200,000	200,000
Average Garden Yield	Kg/Ha	332	320	269

^{##}Factory capacity as reported by the company

Rungmook/Cedars Tea Factory

Rungmook/Cedars Tea factory was established in 1920s. The factory has an installed capacity of 2,00,000 kgs. per annum.

² Vacancy has been calculated based on physical verification by technical experts. However the bidders are advised to carry out their independent due diligence with regard to the information provided.

The condition of the factory is such that with little modification/renovation it should be possible to manufacture good quality tea and fetch better prices. It would be worthwhile to note that the estate has a mini Hydro Project with a capacity to generate 500KVA power. The available factory infrastructure is mentioned below:

- **Withering Section:** Total Withering Area $1920+2592+3600=8112$ (Sq.ft.).
- **Rolling Section:** Total Floor Area: 5347.49 Sq. ft.
- **Fermentation:** Total Floor Area: 6233.23 Sq. ft. -
- **Drying Section:** Total Floor Area: 3972.61 Sq. ft.
- **Sorting Section:** Total Floor Area: 6694.73 Sq. ft.

Manpower and Estate Infrastructure

Total manpower, as per the records of the garden, is 1931 of which there are 1575 employees are currently on rolls as of October 2014.

Sl. No	Category	Total
1	Daily rated workers	1297
2.	Daily rated Factory workers	173
3	Sub staffs	86
4	Staff	19
	Total	1575

The remaining 356 employees are currently not in the rolls for the following reasons:

Exhibit: Break-up of Manpower not on the rolls

Sl.No	Reason	Total
1	Retired	221
2	Resigned	77
3	Dead	58
	Total	356

Labour and Staff Housing: The labour housing consists of 660 standard and 384 non-standard houses.

Hospital/ Medical Facilities: Currently, the garden has no hospital facility. However, there are 3 nursing/paramedical staff to attend to the patients in need of medical attention. Garden compounders attend the patients at first and provide medicine. In severe cases, vehicle is provided by the garden for nearest health centre and/or nearest district hospital. Medical expenses are reimbursed.

Schools: There are 6 schools in the garden of which 5 are primary and one secondary. Around 3,210 students are enrolled in the schools of which 1,610 students are enrolled in the primary schools while 1,600 students are enrolled in the secondary school.

Drinking Water and Sanitation: The entire garden has access to PHE waterline and spring water as a source of drinking water. In view of sanitation, there are 1044 constructed toilets with 11 public toilets for use.

Crèche and other recreational facilities: There are 5 crèches, each catering to ~ 25 children. Additionally, there are 5 clubs and 3 playgrounds for recreational use.

1.1.2. Rangaroon Tea Estate

Background

Rangaroon Tea Estate, established approximately 100 years ago, is located in Rangbull Panchayat area of the district of Darjeeling in West Bengal. The altitude of the garden ranges from 3000 feet to 6500 feet above the mean sea level. The average annual rainfall over the past three years ranged from 270 cm. to 360 cm.

It was acquired by WBTDC in 1977, with a lease tenure of 30 years. The Tea Estate is a member of Tea Research Association.

Area of the garden

The grant area of the garden is **142.66** hectares of which tea area is **89.93** hectares. The breakup of the grant area is as under:

Exhibit: Break-up of grant area

	(in acres)	(in hectares)
Area under Tea	222.12	89.93
Jungle	71.26	28.85
River & Jhora	7.01	2.84
Cardamom	17.86	7.23
Buildings	29.09	11.78
Road/Path	5.01	2.03
Total Grant Area	352.37	142.66

As per the garden records, the total area under tea is spread over eight sections. The break-up of the tea area is as under:

Sec No	1	2	3	4	5	6	7	8	Total
Area (in Ha)	15.62	12.34	14.63	12.63	13.90	10.94	7.67	2.20	89.93

Profile of Tea Area

Out of the total tea area, 30.79 Ha is under clonal varieties which are below 30 years of age. The remaining area is under seedlings and mostly more than 50 years of age. The age profile of the tea area is as under.

Exhibit: Age profile of the garden

Age	<5 years	6-10 yrs	11-20 yrs	21-30 yrs	>50 yrs	Total
Area Ha	3.21	9.87	6.64	11.07	59.14	89.93
%	4%	11%	7%	12%	66%	100%

The vacancy level ranges from 20% to 40%. However, in 78% of total tea area, the vacancy is less than 25%. The extent of tea area under different vacancy level is shown below:

Exhibit: Vacancy Status (Area in hectares)³

³ Vacancy has been calculated based on physical verification by technical experts. However the bidders are advised to carry out their independent due diligence with regard to the information provided.

Vacancy%	Up to 20%	21-25%	26-30%	31-40%	Total
Area	26.56	43.36	12.34	7.67	89.93
%to total	30%	48%	14%	9%	100%

Production and Yield

More than 63% of the total production of the garden comes from six sections.

	Unit	2011	2012	2013
Green Leaf Harvested	Kgs	145,304	136,358	107,791
Made Tea Production	Kgs	32,626	31,836	24,260
Average Garden Yield	Kg/Ha	364	355	271

Rangaroon Tea Factory

Rangaroon Tea factory, established in 1977, has an installed capacity of 35,000 kgs. per annum. However, since last 27 years, the factory has not been functioning. Hence, Rangaroon Tea Estate transfers its green leaves to Pandam Tea Estate.

Manpower and Estate Infrastructure

Total manpower, as per the records of the garden as of October 2014 is 209.

Sl. No	Category	Total
1	Permanent Daily rated workers	157
2.	Staff/Others	17
3	Sub staffs/OMRE	21
4	Casual Labour	14
	Total	209

Labour and Staff Housing: The labour housing consists of 39 standard and 125 non-standard houses, reaching to a total of 164 houses. There are 53 permanent workers who are not provided with houses in the garden.

Schools and Crèche: The Tea Estate has one primary school with 4 teachers and houses a crèche in its premise.

1.1.3. Pandam Tea Estate

Background

Pandam Tea Estate, established approximately 100 years ago, is located in Bijanbari Block Darj II Gram Panchayat area of the district of Darjeeling in West Bengal. The altitude of the garden ranges from 2500 feet to >5560 feet above the mean sea level. The average annual rainfall over the past three years ranged from 122 to 185 cm.

It was acquired by WBTDCC in 1980, with a lease tenure of 30 years. The Tea Estate is a member of Darjeeling Tea Association.

Area of the garden

As per the records, the grant area of the garden is **381.56 hectares** of which tea area is **131.32 hectares**. The breakup of the grant area as per the official records of office of DM, Darjeeling is as under:

Exhibit: Break-up of grant area

	(in acres)	(in hectares)
Area under Tea	324.53	131.32
Jungle	376.90	152.59
Fallow Land	68.61	27.78
Jhora	30.36	12.29
Cardamom	7.58	3.07
Buildings + water tank	18.35	7.43
Road / Path	17.72	7.17
Community Centre/Playground +Land slide area	1.72	0.70
Bamboos	13.29	5.38
Retained Land	23.00	9.31
Encroached Land	60.39	24.45
Total Grant Area	942.45	381.56

As per the garden records, the total area under tea is spread over 13 sections. The break-up of the tea area is as under:

Exhibit: Break-up of Tea area

Sec No	1	2	3	4	5	6	7	8	9	10	11	12	13	Total
Area: (in Ha)	14.57	5.66	9.58	12.08	8.91	15.50	10.79	6.98	10.02	9.84	11.62	9.70	6.07	131.32

Profile of Tea Area

The garden having been located in high altitude, mostly china/china hybrids varieties of planting material have been used.

Exhibit: Summary status of Jat of Tea (Area in hectares)

Jat	Area (in Ha)
China	42.96
China hybrid	83.36
Clonal area	5
Total Tea Area	131.32

The vacancy level ranges from 10% to 50%. However, in 65% of total tea area, the vacancy is less than 25% and in 11% of the area the vacancy level exceed 40%. The extent of tea area under different vacancy level is shown below.

Exhibit: Vacancy Status (Area in hectares)⁴

Vacancy%	Area (in Ha)	% Distribution
41-50%	14.57	11%
31-40%	6.07	5%
26-30%	25.08	19%
16-25%	9.7	7%
11-15%	32.61	25%
Up to 10%	43.29	33%
Total	131.32	100%

Production and Yield

More than 63% of the total production of the garden comes from six sections.

	Unit	2011	2012	2013
Green Leaf Harvested	Kgs	161,782	151,252	148,599
Made Tea Production	Kgs	36,437	34,065	33,468
Average Garden Yield	Kg/Ha	277	259	255

Pandam Tea Factory

Some of the key infrastructure and machinery details are provided below:

- **Withering Troughs:** There are 10 troughs with a total withering area of around 302 sq.m. Out of 10 troughs only 6 are currently operational. Each trough has a capacity of 800 kgs each.
- **Machinery:** Currently there are four machineries for producing orthodox tea, out of which one is non-functional.

Manpower and Estate Infrastructure

Total manpower, as per the records of the garden, is 269.

Sl. No	Category	Total
1	Permanent Daily rated workers	191
2	Staff/Others	34

⁴ Vacancy has been calculated based on physical verification by technical experts. However the bidders are advised to carry out their independent due diligence with regard to the information provided.

3	Sub staffs	37
4	Casual Labour	1
5	Relatives waiting for replacement	6
	Total	269

Labour and Staff Housing: The labour housing consists of 175 houses. Of the total number of houses, there are 75 kutcha, 88 semi pucca and 12 pucca houses.

Dooars Tea Estates

1.1.4. Mohua Tea Estate

Background

Mohua Tea Estate, established in 1979, is located in Dalsingpara Gram Panchayat area of Alipurduar district in West Bengal. The average altitude of the garden is 550 feet above the mean sea level. The average annual rainfall over the past four years was around 386 cm.

The Tea Estate was established by WBTDCL. The Tea Estate is a member of Tea Research Association.

Area of the garden

As per the records of the Tea Estate, the grant area of the garden is **98.38 hectares** of which tea area is **65.5 hectares**. The breakup of the grant area is as under:

Exhibit: Break-up of grant area

	(in acres)	(in hectares)
Area under Tea	161.8	65.50
Roads & Buildings	52.8	21.38
Area lying unutilized	28.4	11.50
Total Grant Area	242.9	98.38

As per the garden records, the total area under tea is spread over 13 sections. The break-up of the tea area is as under:

Sec No	1	2	3	4	5&6	7	8	9	10	11	12	13	Total
Area: Ha	6.5	8.5	6.5	5.0	9.0	3.0	1.0	3.0	3.5	6.0	6.0	7.5	65.5

Profile of Tea Area

The plantation is fairly young and the entire planted area is less than 35 years of age. The bush population comprises of both clones and seedlings.

The vacancy level ranges from 20% to more than 40%. However, in 50% of total tea area, the vacancy is less than 25%. The extent of tea area under different vacancy level is shown below.

Exhibit: Vacancy Status (Area in hectares)⁵

Vacancy%	Up to 20%	21-25%	26-30%	31-40%	Total
Area	13.0	19.5	7.5	25.5	65.5
%to total	20%	30%	11%	39%	100%

Production and Yield

More than 63% of the total production of the garden comes from six sections.

	Unit	2011	2012	2013
Green Leaf Harvested	Kgs	279,591	235,392	265,721
Made Tea Production	Kgs	62,971	53,016	59,847

⁵ Vacancy has been calculated based on physical verification by technical experts. However the bidders are advised to carry out their independent due diligence with regard to the information provided.

Average Garden Yield	Kg/Ha	961	809	914
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Manpower and Estate Infrastructure

Total manpower, as per the records of the garden, is 146 inclusive of 14 staff and sub-staff.

Sl. No	Category	Total
1	Permanent Daily rated workers	74
2.	Staff/Others	05
3	Sub staffs/OMRE	09
4	Casual Labour	58
	Total	146

Labour and Staff Housing: The labour housing consists of 55 standard and 4 non-standard houses. There are 29 workers who are not provided with housing facilities.

Hospital/ Medical Facilities: The garden has one hospital with 5 beds in its premises manned by 3 paramedical staffs.

Schools: There are 2 schools in the garden one primary and the other secondary, manned by 6 teachers 4 of whom are in the primary section and 2 in the secondary section.

1.1.5. Hilla Tea Estate

Background

Hilla Tea Estate, established approximately 100 years ago, is located in Champaguri Gram Panchayat area of the district of Jalpaiguri in West Bengal. The altitude of the garden ranges from 450 feet to 700 feet above the mean sea level. The average annual rainfall over the past four years was around 790 cm.

It was acquired by WBTD in 1979, with a lease tenure of 30 years. The Tea Estate is a member of Tea Research Association.

Area of the garden

As per the records of the Tea Estate, the grant area of the garden is **664.1 hectares** of which tea area is **347.60 hectares**. The breakup of the grant area is as under:

Exhibit: Break-up of grant area

	(in acres)	(in hectares)
Area under Tea	856.52	347.60
Forest (Fuel Bari)	3.68	1.49
Factory	2.04	0.83
Residence	66.51	26.93
Roads	32.4	13.12
Playground	4.23	1.71
Graveyard	1.51	0.61
Drain & Jhora	46.49	18.82
Area lying unutilized (including Waste Land)	361.86	146.50
River	155.93	63.13
Bamboo Bari	27.28	11.04
Vacant	19.25	7.79
Low Land	60.59	24.53
Total Grant Area	1638.29	664.1

The total area is spread over two divisions namely Upper Division (164.31 hectares) and Lower Division (183.29 hectares).

Profile of Tea Area

The plantation is fairly young with 74% of the total tea area being less than 30 years of age and only 20% of the area is more than 50 years. The younger sections are planted mostly with clonal materials (TV series) and the overall clonal area adds up to 60% of the tea area and the remaining 40% of the area is covered by seedlings. The age profile of the garden is as under.

Exhibit: Age profile of the garden

Age	Upto 10 yrs	11-20 yrs	21-30 yrs	31-40 yrs	41-50 yrs	>50 yrs	Total
Area ha	82.03	145.83	29	13.46	8.18	69.1	347.6
%	24%	42%	8%	4%	2%	20%	100%

The vacancy level ranges from 10% to more than 40%. However, in 57% of total tea area, the vacancy is less than 20% and in only 3% of the area the vacancy level exceed 50%. The extent of tea area under different vacancy level is shown below.

Exhibit: Vacancy Status (Area in hectares)⁶

Vacancy%	Up to 10%	11-20%	21-30%	31-40%	41-50%	>50%	Total
Area	82.65	114.52	73.89	45.8	21.33	9.41	347.60
%to total	24%	33%	21%	13%	6%	3%	100%

Production and Yield

More than 63% of the total production of the garden comes from six sections.

	Unit	2011	2012	2013
Green Leaf Harvested	Kgs	1,457,303	1,316,149	1,125,217
Made Tea Production	Kgs	3,13,398	2,84,957	2,41,982
Factory Capacity ^{##}	Kgs	450,000	450,000	450,000
Average Garden Yield	Kg/Ha	902	820	696

^{##}Factory capacity as reported by the company

Hilla Tea Factory

Hilla Tea Factory, established in 1990, has an installed capacity of 4, 50, 000 Kgs. per annum. Some of the key infrastructure and machinery details are provided below:

- **Withering Troughs:** There are 11 troughs with a total withering area of around 2836 sq.m.
- **Machinery:** Currently there are two CTC machineries having capacity of 500 kgs each.
- **Fermentation:** There is one machine at present in the Hilla Tea Estate having capacity of about 1200 kgs.
- **Drying:** There are two driers having installed capacity of 110 kgs and 160 kgs
- **Sorting:** There are 4 machines , 2 with an installed capacity of 500 kgs and the other 2 have installed capacity of 1000 kgs each

Manpower and Estate Infrastructure

Total manpower, as per the records of the garden, is 782.

Sl. No	Category	Total
1	Permanent Daily rated workers	713
2.	Staff/Others	17
3	Sub staffs/OMRE	52

⁶ Vacancy has been calculated based on physical verification by technical experts. However the bidders are advised to carry out their independent due diligence with regard to the information provided.

	Total	782
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Labour and Staff Housing: The labour housing consists of 275 standard and 279 non-standard houses. There are 120 workers who are not provided with housing.

Hospital/ Medical Facilities: The garden has one hospital with 5 beds in its premises manned by 3 paramedical staffs.

APPENDIX III: COVERING LETTER

(On the letterhead of the bidder/ lead member of the consortium)

Dated: [●]

To
Managing Director,
West Bengal Tea Development Corporation Limited
SHYAMKUNJ, 12-B, Lord Sinha Road,
3rd Floor, Kolkata - 700071

Sub: Qualification Bid for Transfer of Tea Gardens under West Bengal Tea Development Corporation Limited (WBTDCL)

Dear Sir,

1. With reference to your RFP document vide RFP No. [.]dated [.] , we, having examined the bidding documents and understood their contents, hereby submit our bid for the aforesaid Project. The bid is unconditional and unqualified.
2. We acknowledge that WBTDCL will be relying on the information provided in the bid and the documents accompanying the bid for selection of the lessee for the aforesaid Project, and we certify that all information provided therein is true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying the bid are true copies of their respective originals.
3. This statement is made for the express purpose for our selection as Lessee of the said tea gardens .
4. We shall make available to WBTDCL any additional information it may find necessary or require to supplement or authenticate the bid.

5. We acknowledge the right of WBTDCL to reject our bid without assigning any reason or otherwise and hereby waive, to the fullest extent permitted by applicable law our right to challenge the same on any account whatsoever.

6. We declare that:
 - a. We have examined and have no reservations to the bidding documents, and accept the same including any addendum/ corrigendum issued by WBTDCL.

 - b. We do not have any conflict of interest in accordance with clause 7.8 of the RFP document;

 - c. We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as defined in clause 4.3 of the RFP, in respect of any tender or request for proposal issued by or any agreement entered into with WBTDCL or any other public sector enterprise or any Government, Central or State; and

 - d. We hereby certify to ensure that in conformity with the provisions of clause 4 of the RFP, no person acting for us or on our behalf has engaged or will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice.

7. We understand that you may cancel the bidding process at any time and that you are neither bound to accept any bid that you may receive nor to invite the bidders to bid for the Project, without incurring any liability to the bidders, in accordance with clause 2.15 of the RFP document.

8. We declare that we/ any member of our consortium (delete as applicable) are/ is not a member of a/ any other consortium submitting a bid for the Project.

9. We undertake that in case due to any change in facts or circumstances during the bidding process, we are attracted by the provisions of disqualification in terms of the provisions of this RFP, we shall intimate WBTDCL of the same immediately.

10. We acknowledge that our {company / consortium}, being a {company/ / consortium of companies } is qualified on the basis of Financial Capacity required as per the RFP. We

further agree and acknowledge that the aforesaid obligation shall be in addition to the obligations contained in the Lease Deed in respect of change in ownership.

11. We acknowledge and agree that in the event of a change in control of an associate whose Financial Capacity was taken into consideration for the purposes of qualification under and in accordance with the RFP, we shall inform WBTDCL forthwith along with all relevant particulars and WBTDCL may, in its sole discretion, disqualify our consortium or withdraw the LOI, as the case may be.
12. The statement of legal capacity as per format provided in Appendix XII of the RFP, and duly signed, is enclosed. The Power of Attorney for signing of application for single bidders and the Power of Attorney for lead member of consortium, as per format provided in Appendices V and VI respectively of the RFP, is also enclosed. The RFP document together with any subsequent addendum/ corrigendum/ clarifications issued by WBTDCL in this regard, duly initialed on all pages in token of its acceptance is also enclosed.
13. We hereby irrevocably waive any right which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by WBTDCL in connection with the selection of the bidder, or in connection with the selection/ bidding process itself, in respect of the above mentioned Project and the terms and implementation thereof.
14. In the event of our being declared as the Selected Bidder, we agree to enter into the Lease Deed in accordance with the proforma Lease Deed enclosed hereto. We agree not to seek any changes in the aforesaid proforma.
15. We have studied all the bidding documents carefully and also surveyed the site. We agree that we shall have no claim arising out of any documents or information provided to us by WBTDCL or in respect of any matter arising out of or relating to the bidding process including the award of lease.
16. We offer a bid security of Rs.[]/-(Rupees []only) in accordance with the RFP. The bid security is in the form of a Bank Guarantee and is enclosed.
17. We agree and understand that the bid is subject to the provisions of the bidding documents. In no case, we shall have any claim or right of whatsoever nature if the Project / lease is not awarded to us or our bid is rejected or not opened.

18. The Financial Bid has been quoted by us after taking into consideration all the terms and conditions stated in the RFP, proforma Lease Deed, our own estimates of costs, investigation of title and after a careful assessment of the site and all the conditions that may affect the cost and implementation of the Project.
19. We shall keep this offer valid for 180 (one hundred and eighty) days from the bid due date specified in the RFP.
20. We agree and undertake to abide by all the terms and conditions of the RFP.
21. We certify that we fulfill the eligibility criteria in accordance with clauses 1.4 of the RFP.
22. We certify that in terms of the RFP, our Net Worth is Rs. [•]/- (Rupees [•] only) as on [•].

Yours faithfully,

Date: (Signature, name and designation of the authorised signatory)

Place: (Name and seal of the bidder/ lead member)

APPENDIX IV: GENERAL INFORMATION OF THE BIDDER

(On the letterhead of the bidder/ lead member of the consortium)

Dated: [●]

1.
 - a) Name:
 - b) Address of the corporate headquarters:
 - c) Date of incorporation and / or commencement of business:

2. Brief description of the company including details of its main lines of business:

3. Details of individual(s) who will serve as the point of contact/ communication for the bidder:
 - (a) Name:
 - (b) Designation:
 - (c) Address:
 - (d) Telephone Number:
 - (e) email address:
 - (f) Fax Number:

4. Particulars of the authorised signatory of the bidder:
 - (a) Name:
 - (b) Designation:
 - (c) Address:
 - (d) Telephone Number:
 - (e) email address:
 - (f) Fax Number:

5. In case of a consortium:

- (a) The information (for 1 and 2 above) should be provided for all the members of the consortium.
- (b) A copy of the Joint Bidding Agreement, as envisaged in clause 1.4.3 (b) should be attached to the Qualification Bid.
- (c) Information regarding the role of each member should be provided as per table below:

Sl. No.	Name of member	Whether lead member (yes/no)
1.		
2.		
3.		

6. Net worth details

In case of a single bidder:

As on last date of financial year	Net worth (in Rs. crore)
2013-2014	
2012-2013	
2011-2012	

In case of a consortium:

As on last date of financial year	Net worth (in Rs. crore)			
	Lead member	Member 2	Member 3	Total
	<Member name>	<Member name>	<Member name>	
2013-2014				
	<share of Net Worth in % > *	<share of Net Worth in % > *	<share of Net Worth in % > *	100%

2012-2013				
2011-2012				

* Please indicate % share of each member of the consortium in the combined Net Worth of the Consortium as on last date of financial year 2013-2014

APPENDIX V: POWER OF ATTORNEY FOR SINGLE BIDDER

(To be executed on stamp paper of appropriate value)

Know all men by these presents, We, _____ (name of the bidder and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorise Mr./ Ms. _____ son/ daughter/ wife of Mr. _____, and _____ presently residing at _____, who is presently employed with us and holding the position of _____, as our true and lawful attorney (hereinafter referred to as the “Attorney”) to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our bid for the ‘Transfer of Tea Gardens under West Bengal Tea Development Corporation Limited’(the “Project”) proposed by the West Bengal Tea Development Corporation Limited (WBDCL) including but not limited to signing and submission of all applications, bids and other documents and writings, participate in pre-bid and other conferences and providing information / responses to WBDCL, representing us in all matters before WBDCL, signing and execution of all contracts including the Lease Deed and undertakings consequent to acceptance of our bid, and generally dealing with WBDCL in all matters in connection with or relating to or arising out of our bid for the said Project and/or upon award thereof to us and/or till the entering into of the Lease Deed with WBDCL.

AND we hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us.

IN WITNESS WHEREOF WE, _____, THE ABOVE NAMED PRINCIPAL HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS _____ DAY OF _____, 20**.

For _____

(Signature, name, designation and address)

Witnesses:

1.

2.

[Notarised]

Accepted

(Signature)

(Name, Title and Address of the Attorney)

Notes:

- *The mode of execution of the Power of Attorney should be in accordance with the applicable laws.*
- *Wherever required, the bidder should submit for verification the extract of the charter documents and documents such as a board or shareholders or any other resolution/ Power of Attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the bidder.*
- *Power of Attorney should be executed upon payment of stamp duty of appropriate value, as applicable in the State, where such Power of Attorney has been executed*

APPENDIX VI: POWER OF ATTORNEY FOR LEAD MEMBER OF CONSORTIUM

(To be executed on stamp paper of appropriate value)

WHEREAS West Bengal Tea Development Corporation Limited (WBTDC) has invited bids from interested parties for 'Transfer of Tea Gardens under West Bengal Tea Development Corporation Limited' .

WHEREAS, _____, _____, and _____ (collectively the "Consortium") being members of the Consortium are interested in bidding for the Project in accordance with the terms and conditions of the Request for Proposal vide RFP No. [xxxxxxx] dated [.]and other connected documents in respect of the Project, and

WHEREAS, it is necessary for the members of the Consortium to designate one of the members as the Lead Member with all necessary power and authority to do for and on behalf of the Consortium, all acts, deeds and things as may be necessary in connection with the Consortium's bid for the Project and its execution.

NOW THEREFORE KNOW ALL MEN BY THESE PRESENTS

We, _____ having our registered office/ office at _____, M/s. _____, having our registered office/ office at _____, and M/s. _____, having our registered office/ office at _____, (hereinafter collectively referred to as the "Principals") do hereby irrevocably designate, nominate, constitute, appoint and authorise M/s _____, having its registered office/ office at _____, (acting through Mr. [•], its [•], Mr. [•], its [•], jointly or severally), being one of the members of the Consortium, as our Lead Member and true and lawful attorney of the Consortium (hereinafter referred to as the "Attorney"). We hereby irrevocably authorise the Attorney (with power to sub-delegate) to conduct all business for and on behalf of the Consortium and any one of us during the bidding process and, in the event the Consortium is awarded the lease, during the execution of the Project, and in this regard, to do on our behalf and on behalf of the Consortium, all or any of such acts, deeds or things as are necessary or required or incidental to the submission of its bid for the Project, including but not limited to signing and submission of all applications, bids and other documents and writings, participate in bidders' and other conferences, respond to queries, submit information/ documents, sign and execute contracts and undertakings consequent to acceptance of the bid of the Consortium and generally to represent the Consortium in all its dealings with WBTDC, and/ or any other government agency or any

person, in all matters in connection with or relating to or arising out of the Consortium's bid for the Project and/ or upon award thereof till the Lease Deed is entered into with WBTDCL.

AND hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things lawfully done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us/ Consortium.

IN WITNESS WHEREOF WE THE PRINCIPALS ABOVE NAMED HAVE EXECUTED
THIS POWER OF ATTORNEY ON THIS _____ DAY OF 20**.

For _____
(Signature)

(Name & Title)

For _____
(Signature)

(Name & Title)

For _____
(Signature)

(Name & Title)

Witnesses:

1.

[Notarised]

2.

(Executants)

(To be executed by all the members of the Consortium)

Notes:

- *The mode of execution of the Power of Attorney should be in accordance with the applicable laws.*
- *Also, wherever required, the bidder should submit for verification the extract of the charter documents and documents such as a board or shareholders resolution or any other resolution/ Power of Attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the bidder.*
- *Power of Attorney should be executed upon payment of stamp duty of appropriate value as applicable in the State, where such Power of Attorney has been executed.*

APPENDIX VII: BANK GUARANTEE FOR BID SECURITY

(To be executed on stamp paper of appropriate value)

B.G. No.

Dated: [●]

1. In consideration of you, West Bengal Tea Development Corporation Limited (WBTDCL), having its office at SHYAMKUNJ, 12-B, Lord Sinha Road, 3rd Floor, Kolkata - 700071 (hereinafter referred to as the “Department”, which expression shall unless it be repugnant to the subject or context thereof include its, successors and assigns) having agreed to receive the bid of _____ {a Company registered under the provisions of the Companies Act, 1956 / [●]⁷} and having its {registered office/ office} at _____ [and acting on behalf of its Consortium] (hereinafter referred to as the “Bidder” which expression shall unless it be repugnant to the subject or context thereof include its/their executors administrators, successors and assigns), for ‘Transfer of Tea Gardens under West Bengal Tea Development Corporation Limited’ (hereinafter referred to as the “Project”) pursuant to the RFP Document vide RFP No. [.] dated [.] 2014 issued in respect of the Project and other related documents (hereinafter collectively referred to as “Bidding Documents”), we [Name of the Bank] having our registered office at _____ and one of its branches at _____ (hereinafter referred to as the “Bank”), at the request of the Bidder, do hereby in terms of clause 1.18.1 of the RFP, irrevocably, unconditionally and without reservation guarantee the due and faithful fulfillment and compliance of the terms and conditions of the Bidding Documents (including the RFP) by the said Bidder and unconditionally and irrevocably undertake to pay forthwith to WBTDCL an amount of Rs. [.]/- (Rupees [.] only) (hereinafter referred to as the “Guarantee”) as our primary obligation without any demur, reservation, recourse, contest or protest and without reference to the Bidder shall fail to fulfill or comply with all or any of the terms and conditions contained in the said Bidding Documents.
2. Any such written demand made by WBTDCL stating that the Bidder is in default of the due and faithful fulfillment and compliance with the terms and conditions contained in the Bidding Documents shall be final, conclusive and binding on the Bank.
3. We, the Bank, do hereby unconditionally undertake to pay the amounts due and payable under this Guarantee without any demur, reservation, recourse, contest or protest and without any reference to the Bidder or any other person and irrespective of whether the claim of WBTDCL is disputed by the Bidder or not merely on the first demand from WBTDCL stating that the amount claimed is due to WBTDCL by reason of failure of the Bidder to fulfill and comply with the terms and conditions contained in the Bidding Documents.

⁷Mention relevant legislation under which entity is registered, as applicable

Documents including failure of the said Bidder to keep its bid open during the bid validity period as set forth in the said Bidding Documents for any reason whatsoever. Any such demand made on the Bank shall be conclusive as regards amount due and payable by the Bank under this Guarantee. However, our liability under this Guarantee shall be restricted to an amount not exceeding Rs. [.]/- (Rupees [.] Only).

4. This Guarantee shall be irrevocable and remain in full force for a period of 180 (one hundred and eighty) days from the bid due date or for such extended period as may be mutually agreed between WBTDCL and the Bidder, and agreed to by the Bank, and shall continue to be enforceable till all amounts under this Guarantee have been paid.
5. We, the Bank, further agree that WBTDCL shall be the sole judge to decide as to whether the Bidder is in default of due and faithful fulfillment and compliance with the terms and conditions contained in the Bidding Documents including, inter alia, the failure of the Bidder to keep its bid open during the bid validity period set forth in the said Bidding Documents, and the decision of WBTDCL that the Bidder is in default as aforesaid shall be final and binding on us, notwithstanding any differences between WBTDCL and the Bidder or any dispute pending before any Court, Tribunal, Arbitrator or any other Department.
6. The Guarantee shall not be affected by any change in the constitution or winding up of the Bidder or the Bank or any absorption, merger or amalgamation of the Bidder or the Bank with any other person.
7. In order to give full effect to this Guarantee, WBTDCL shall be entitled to treat the Bank as the principal debtor. WBTDCL shall have the fullest liberty without affecting in any way the liability of the Bank under this Guarantee from time to time to vary any of the terms and conditions contained in the said Bidding Documents or to extend time for submission of the Bids or the bid validity period or the period for conveying acceptance of Letter of Intimation of Award of Lease by the Bidder or the period for fulfillment and compliance with all or any of the terms and conditions contained in the said Bidding Documents by the said Bidder or to postpone for any time and from time to time any of the powers exercisable by it against the said Bidder and either to enforce or forbear from enforcing any of the terms and conditions contained in the said Bidding Documents or the securities available to WBTDCL, and the Bank shall not be released from its liability under these presents by any exercise by WBTDCL of the liberty with reference to the matters aforesaid or by reason of time being given to the said Bidder or any other forbearance, act or omission on the part of WBTDCL or any indulgence by WBTDCL to the said Bidder or by any change in the constitution of WBTDCL or its absorption, merger or amalgamation with any other person or any other matter or thing whatsoever which under the law relating to sureties would but for this provision have the effect of releasing the Bank from its such liability.
8. Any notice by way of request, demand or otherwise hereunder shall be sufficiently given or made if addressed to the Bank and sent by courier or by registered post to the Bank at the address set forth herein.
9. We undertake to make the payment on receipt of your notice of claim on us addressed to [name of Bank along with branch address] and delivered at our above branch who shall be deemed to have been duly authorised to receive the said notice of claim.

10. It shall not be necessary for WBTDCL to proceed against the said Bidder before proceeding against the Bank and the Guarantee herein contained shall be enforceable against the Bank, notwithstanding any other security which WBTDCL may have obtained from the said Bidder or any other person and which shall, at the time when proceedings are taken against the Bank hereunder, be outstanding or unrealised.
11. We, the Bank, further undertake not to revoke this Guarantee during its currency except with the prior approval of WBTDCL in writing.
12. The Bank declares that it has power to issue this Guarantee and discharge the obligations contemplated herein, the undersigned is duly authorised and has full power to execute this Guarantee for and on behalf of the Bank.

Signed and Delivered by _____ Bank

By the hand of Mr./Ms _____, its _____ and authorised official.

(Signature of the Authorised Signatory)

(Official Seal)

APPENDIX VIII: JOINT BIDDING AGREEMENT

(To be executed on stamp paper of appropriate value)

THIS JOINT BIDDING AGREEMENT is entered into on this the day of 20...

AMONGST

1. {....., a company incorporated under the} and having its {registered office/ office} at (hereinafter referred to as the “**First Part**” or the “**Lead Member**” which expression shall, unless repugnant to the context include its successors and permitted assigns)

AND

2. {....., a company incorporated/registered under the} and having its {registered office/ office} at (hereinafter referred to as the “**Second Part**” or the “**1st Consortium Member**” which expression shall, unless repugnant to the context include its successors and permitted assigns)

AND

3. {....., a company incorporated/registered under the} and having its {registered office/ office} at (hereinafter referred to as the “**Third Part**” or the “**2nd Consortium Member**” which expression shall, unless repugnant to the context include its successors and permitted assigns)

The above mentioned parties of the FIRST, SECOND, AND THIRD PART are collectively referred to as the “**Parties**” and each is individually referred to as a “**Party**”

WHEREAS,

(A) West Bengal Tea Development Corporation Limited (hereinafter referred to as the “WBTDCL” which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns) has invited bids (“**bids**”) by its Request for Proposal vide RFP No. [.] dated [.] 2014 (“**RFP**”) for selection of bidders for ‘Transfer of Tea Gardens under West Bengal Tea Development Corporation Limited’.

- (B) The Parties are interested in jointly bidding for the Project as members of a Consortium and in accordance with the terms and conditions of the RFP and other bid documents in respect of the Project, and
- (C) It is a necessary condition under the RFP that the members of the Consortium shall enter into a Joint Bidding Agreement (the “Agreement”) and furnish a copy thereof with the bid.

NOW IT IS HEREBY AGREED as follows:

1. Definitions and Interpretations

In this Agreement, the capitalised terms shall, unless the context otherwise requires, have the meaning ascribed thereto under the RFP.

2. Consortium

- 2.1 The Parties do hereby irrevocably constitute a consortium (the “**Consortium**”) for the purposes of jointly participating in the bidding process for the Project.
- 2.2 The Parties hereby undertake to participate in the bidding process only through this Consortium and not individually and/ or through any other consortium constituted for this Project, either directly or indirectly or through any of their associates.

3. Covenants

The Parties hereby undertake that in the event the Consortium is declared the Selected Bidder and awarded the Project, it shall incorporate itself as a Company registered under the Companies Act, 1956/2013 or limited liability partnership under the Limited Liability Partnership Act, 2008 (SPV) and shall make the payment of the Financial Bid within the time prescribed in the RFP and also cause the SPV to enter into Lease Deed for performing all its obligations as the Lessee in terms of the Lease Deed for the Project.

4. Role of the Parties

The Parties hereby undertake that Party of the First Part shall be the Lead Member of the Consortium and shall have the Power of Attorney from all Parties for conducting all business for and on behalf of the Consortium during the Bidding Process and until the signing of the Lease Deed when all the obligations of the Consortium shall become effective.

5. Joint and Several Liability

The Parties do hereby undertake to be jointly and severally responsible for all obligations and liabilities relating to the Project and in accordance with the terms of the RFP and the Lease Deed, during subsistence of the Lease Deed.

6. Representation of the Parties

Each Party represents to the other Parties as of the date of this Agreement that:

- a. Such Party is duly organised, validly existing and in good standing under the laws of India and has all requisite power and authority to enter into this Agreement;
- b. The execution, delivery and performance by such Party of this Agreement has been authorised by all necessary and appropriate corporate or governmental action and a copy of the extract of the charter documents and board resolution or any other resolution/ Power of Attorney in favour of the person executing this Agreement for the delegation of power and authority to execute this Agreement on behalf of the Consortium Member is annexed to this Agreement, and will not, to the best of its knowledge:
 - i. require any consent or approval not already obtained;
 - ii. violate any Applicable Law presently in effect and having applicability to it;
 - iii. violate the memorandum and articles of association, bye-laws or other applicable organisational documents thereof;
 - iv. violate any clearance, permit, concession, grant, license or other Governmental authorisation, approval, judgment, order or decree or any mortgage agreement, indenture or any other instrument to which such Party is a party or by which such Party or any of its properties or assets are bound or that is otherwise applicable to such Party; or
 - v. create or impose any liens, mortgages, pledges, claims, security interests, charges or encumbrances or obligations to create a lien, charge, pledge, security interest, encumbrances or mortgage in or on the property of such Party, except for encumbrances that would not, individually or in the aggregate, have a material adverse effect on the financial condition or prospects or business of such Party so as to prevent such Party from fulfilling its obligations under this Agreement;

- c. this Agreement is the legal and binding obligation of such Party, enforceable in accordance with its terms against it; and
- d. there is no litigation pending or, to the best of such Party's knowledge, threatened to which it or any of its Affiliates is a party that presently affects or which would have a material adverse effect on the financial condition or prospects or business of such Party in the fulfillment of its obligations under this Agreement.

7. Termination

This Agreement shall be effective from the date hereof and shall continue in full force and effect until the execution of the Lease Deed for the Project, in case the Project is awarded to the Consortium. However, in case the Consortium is either not pre-qualified for the Project or does not get selected for award of the Project, the Agreement will stand terminated in case the Consortium is not pre-qualified or upon return of the bid security by WBTDCL to the Bidder, as the case may be. None of the parties will be entitled to terminate their association with the Consortium, till return of the bid security by WBTDCL or payment of the amount specified in the Financial Bid by the Consortium, whichever is later.

8. Miscellaneous

- 8.1 This Joint Bidding Agreement shall be governed by laws of India.
- 8.2 The Parties acknowledge and accept that this Agreement shall not be amended by the Parties without the prior approval of WBTDCL.

IN WITNESS WHEREOF THE PARTIES ABOVE NAMED HAVE EXECUTED AND DELIVERED THIS AGREEMENT AS OF THE DATE FIRST ABOVE WRITTEN.

SIGNED, SEALED AND DELIVERED
DELIVERED

For and on behalf of
LEAD MEMBER by:

(Signature)

(Signature)

(Name)

SIGNED, SEALED AND

For and on behalf of
SECOND PART

(Name)

(Designation)
(Address)

(Designation)
(Address)

SIGNED, SEALED AND DELIVERED
THIRD PART by:

For and on behalf of

(Signature)
(Name)
(Designation)
(Address)

In the presence of:

- 1.
- 2.

Notes:

- 1. The mode of the execution of the Joint Bidding Agreement should be in accordance with the applicable laws.*
- 2. Each Joint Bidding Agreement should attach a copy of the extract of the charter documents and documents such as resolution / Power of Attorney in favour of the person executing this Agreement for the delegation of power and authority to execute this Agreement on behalf of the Consortium Member.*

APPENDIX IX: TECHNICAL CAPACITY OF BIDDER

Instructions

- 1 The summary table below details that need to be provided for the projects that the Applicant / consortium wish to showcase as relevant experience (adhering to the instructions given in section)
- 2 In case of consortium applications, such details should be provided separately for each of the Consortium members.
- 3 For each garden showcased against the requirements of Technical Capacity, the following details should be enclosed (in the formats provided below)
 - Lease deed should be enclosed
 - Garden Description along with factory details (wherever applicable) should be furnished. (A separate sheet to be attached as per the format shown. In case of more than one garden, separate sheets need to be attached.)

Summary Table

Sl. No	Garden Name	Owned/Managed	Total Area	Area Under Tea	Year Acquired/No. of years of Managing	Garden Description
1						

Section 1: Garden Information

Sl. No.	Particulars								
1	Name of the Tea Estate:								
2.a	Tea Board Registration Number								
2.b	Nearest Field office of Tea Board								
3.a	Location and Mailing address of the garden	Nearest post office/PIN code							
		Taluk/Panchayat							
		District							
		Nearest Railway station							
3.b.	Name of the Manager & his Contact Details	Name							
		Telephone(land line)							
		Mobile No.							
		Fax							
		Email							
4.	Elevation from sea level (in meters)for the tea garden	Highest Elevation:							
		Lowest Elevation:							
		Average Elevation:							
5.a.	Year of establishment of the garden								
5.b.	Age of the garden								
6	Area of the garden in Hectares with breakup to match the grant area, as on 01 st April, 2014.								
	Grant Area								
	Tea Area								
	Area under other crops								
	Cultivable fallow								
	Uncultivable fallow								
	Deemed forest								
	Buildings & roads								
7.a.	Tenure of the lease								
7.b.	Annual Lease Rental being paid (in Rs./Hectare)								
8.	Due date for renewal of Lease								
Membership of Producers' Association. Please tick() whichever is applicable									
9.a.	ITA		TAI		DTA		None		
9.b.	Whether a current member of TRA (Yes or No)								

Section 2: Production and Yield

Particulars	Unit	2009	2010	2011	2012	2013
Green Leaf Produced	'000 kg					
Green Leaf Purchased	'000 kg					
Green Leaf Sold	'000 kg					
Sale price for green leaf	Rs/kg					
Made Tea Production	'000 kg					
Factory Capacity	'000 kg					
Capacity utilisation	%					
Sales Quantity	'000 kg					
Sale Price for made tea	Rs/kg					
Garden Yield	Kg/Ha					

APPENDIX X: FINANCIAL CAPACITY OF BIDDER

(On the letterhead of the statutory auditor/ qualified external auditor)

Dated: [●]

Certificate of Financial Capacity⁸

We certify that M/s _____, which is a company registered under the Companies Act, 1956, has a Net Worth of Rs. _____ as per its audited books of accounts as on <last date of financial year 2013-2014>. We further certify that the said Net Worth have been calculated in accordance to the formula specified in clause 1.4.4.1 of the RFP vide RFP No. [.] dated[.] 2014 for 'Transfer of Tea Gardens under West Bengal Tea Development Corporation Limited' issued by WBTDCL on [.] 2014.

Name of statutory auditor:

Authorised signature of {statutory auditor/ a qualified external auditor who audits the books of account of the Bidder}:

Seal of {statutory auditor/ a qualified external auditor who audits the books of account of the Bidder}:

Date:

Note:

In case of a consortium, the above certificate has to be provided separately for each member of the consortium.

⁸To be issued by a statutory auditor in case of a company incorporated under the Companies Act, 1956 or a qualified external auditor who audits the books of account of the Bidder in case of other entities.

APPENDIX XI: FORMAT OF FINANCIAL BID

(On the letterhead of the bidder/ lead member of the consortium)

Dated: [●]

To
The Managing Director,
West Bengal Tea Development Corporation Limited
SHYAMKUNJ, 12-B, Lord Sinha Road,
3rd Floor, Kolkata - 700071

Sub: Financial bid for ‘Transfer of Tea Gardens under West Bengal Tea Development Corporation Limited’

Dear Sir,

1. With reference to your RFP document vide RFP No. [.] dated[.] 2014, we, having examined the Bidding Documents and understood their contents, hereby submit our bid for the aforesaid Project. The bid is unconditional and unqualified.

We hereby state that our bid is in accordance with the bidding documents and proforma Lease Deed and hereby bid the following sum as our Financial Bid:

Amount in words	Amount in figures
Rupees _____ _____	INR _____

We agree to keep this offer valid for 180 (one hundred and eighty) days from the bid due date specified in the RFP, or as extended by us from time to time.

2. We agree and undertake to abide by all the terms and conditions of the RFP document.

3. In case we are declared as the Selected Bidder, we agree to make the payment of the Financial Bid as per the terms and conditions and timelines given in clause 3.4 and 3.5 of the RFP document.

Yours faithfully,

(Signature, name and designation of the authorised signatory)

(Name and seal of the bidder/ lead member)

APPENDIX XII: STATEMENT OF LEGAL CAPACITY

(On the letterhead of the bidder/ lead member of the consortium)

Dated: [●]

To
The Managing Director,
West Bengal Tea Development Corporation Limited
SHYAMKUNJ, 12-B, Lord Sinha Road,
3rd Floor, Kolkata - 700071

Dear Sir,

We hereby confirm that we/ our members in the consortium (constitution of which has been described in the application) satisfy the terms and conditions laid out in the RFP document vide RFP No. [.]dated[.] 2014.

We have agreed that, one of the members of the consortium, (insert member's name) will act as the lead member of our consortium.*

We have agreed that (insert individual's name) will act as our representative/ will act as the representative of the consortium on its behalf* and has been duly authorized to submit the bid in respect of RFP for 'Transfer of Tea Gardens under West Bengal Tea Development Corporation Limited' issued by WBTDC on [.] 2014.

Further, the authorised signatory is vested with requisite powers to furnish such letter and authenticate the same.

Thanking you,

Yours faithfully,

(Signature, name and designation of the authorised signatory)

For and on behalf of.....

*Please strike out whichever is not applicable.

APPENDIX XIII: QUALIFICATION BID CHECKLIST

Sl. No.	Item	Checked by Bidder	Checked by Department
1.	Covering Letter (Appendix III)		
2.	General Information of the Bidder (Appendix IV)		
3.	Power of Attorney for signing of bid in the prescribed format (Appendix V)		
4.	If applicable, the Power of Attorney for Lead Member of Consortium in the prescribed format (Appendix VI)		
5.	Bid security in the prescribed Bank Guarantee format (Appendix VII)		
6.	Joint Bidding Agreement (in case of Consortium) (Appendix VIII)		
7.	Technical Capacity of the Bidder (Appendix IX)		
8.	Financial Capacity of the Bidder (Appendix X)		
9.	Statement of Legal Capacity (Appendix XII)		
10.	Receipt of payment of bid document cost;		
11.	Undertaking (on the Letter Head of the Bidder or in case of a consortium, the Lead Member) and Challan for PF Submission (Appendix XVI)		
12.	Undertaking (on the Letter Head of the Bidder or in case of a consortium, the Lead Member) that there are no dues with Tea Board of India		
13.	Photocopy of RFP document initialed along with rubber stamp/ seal as a token of acceptance.		

APPENDIX XIV: PROFORMA LEASE DEED

THIS DEED OF LEASE made this [•] day of [•] Two Thousand and Fourteen **BETWEEN THE GOVERNOR OF THE STATE OF WEST BENGAL**, hereinafter called the “**LESSOR**” (which expression where not repugnant to the context shall include here successors in office and assigns) of the **FIRST PART**.

AND

..... a Company within the meaning of the Companies Act, 2013 / LLP incorporated under the Limited Liability Partnership Act, 2008 having its registered office at [•] hereinafter called the “**LESSEE**” (which expression shall unless excluded by or repugnant to the context be deemed to include its successors and assigns) of the **SECOND PART**.

AND

WEST BENGAL TEA DEVELOPMENT CORPORATION LIMITED, a Government Company within the meaning of the Companies Act, 2013 having its registered office at [•] hereinafter called the “**CONFIRMING PARTY or PREVIOUS LESSEE**” (which expression shall unless excluded by or repugnant to the context be deemed to include its successors and assigns) of the **SECOND PART**.

WHEREAS:

- A. The Lessor is seised and possessed of and/or otherwise well and sufficiently entitled to lands and hereditaments described in Schedule I and hereinafter referred to as the “**said lands and hereditaments**” which have been used as tea gardens.
- B. The Confirming Party had obtained on lease the said lands and hereditaments from the Lessor to manage the tea garden.
- C. The Government of West Bengal in line with its policy of revival and restructuring of organizations, rejuvenation of tea gardens and for protecting the interest of the workers wishes to identify and conclude contract/s with appropriate strategic investor/s capable of such revival and restructuring at the best possible price.
- D. The Confirming Party is authorized to act on behalf of Government of West Bengal to carry out the process of transfer of business of the tea gardens as a going concern and grant of lease of the land comprising of the tea gardens through the Lessor, in favour of the Selected Bidder.
- E. In such circumstances, Bids were invited by the Confirming Party for transfer of tea garden including for lease of the said lands and hereditaments vide Request for Proposal dated [•].

- F. The Lessee participated in the said bidding process and the Financial Bid of the Lessee being the highest bid so received from the qualified bidders, the said bid was accepted subject to the Lessee complying with terms and conditions contained in the document of Request for Proposal.
- G. The Lessee has since paid to the Confirming Party the entire payment to be made in terms of document of Request for Proposal and has now become entitled to a lease of the said lands and hereditaments from the Lessor. In terms of the document of Request for Proposal, the Confirming Party, has on behalf of the Lessee, paid the Lessor, the Lease Premium / Salami for grant of lease in favour of the Lessee.
- H. The Confirming Party hereby surrender the lease in respect of the said lands and hereditaments to the Lessor so that the Lessor may grant a fresh lease in favour of the Lessee.
- I. The Lessor has now agreed to grant to the Lessee a lease of the said lands and hereditaments for a period of 30 years from the date of delivery of possession of the said lands and hereditaments to the Lessee and on the terms and conditions as hereinafter contained.

NOW THIS DEED OF LEASE WITNESSETH as follows:

- (1) In consideration of the rent and salami, covenants and conditions hereinafter reserved and contained, and on the part of the Lessee, to be paid, observed and

performed, the Lessor doth hereby grant and demise unto the Lessee the lands and hereditaments described in Schedule I subject to the reservation specified in Schedule II for a term of thirty years from the day of
YIELDING AND PAYING therefor the clear yearly rent of Rs.
(Rupees) only without any deduction payable in two equal instalments on or/before (a) 30th June and 31st December or (b) 31st August and 28th February in each and every year.

AND the Lessee to the intent that the obligations may continue throughout the period of the demise doth hereby agree and covenant and agree with the Lessor as follows :—

(1) That the Lessee shall pay—

(a) the said rent at the time and in the manner aforesaid,

(b) all arrear, rents, if any, at the above rate at the times and in the manner as the State Government may direct, and

(c) other rates, taxes and assessments that are now, or may at any time hereafter be, assessed, charged or imposed on the said land and hereditaments,

against proper receipts from the Collector for the amounts paid. No payment shall be recognised by the Lessor without such receipts.

(1A) The Confirming Party hereby surrender the lease in respect of the said lands and hereditaments to the Lessor. From the date of execution of these presents, the Deed of

Lease dated shall stand surrendered by the Confirming Party by these presents.

(2) That the Lessee shall have an office in or near to the said lands and hereditaments . The Lessee shall appoint a manager or agent who shall reside thereat and shall confer on such manager or agent full powers to act on behalf of the Lessee in all matters relating to the management of the said lands and hereditaments and in observance of the terms, conditions and covenants herein on the part of the Lessee contained.

(3) That the Lessee shall register the name of the said manager or agent for the time being in the District Collector's office.

(4) (a) That the Lessee shall at all times observe and conform to the relevant provisions of the West Bengal Estates Acquisition Rules for the time being in force.

(b) That in respect of land comprised in a forest the Lessee shall be subject to the control and supervision of the State Government.

(5) That the Lessee shall not construct a dam, obstruct or otherwise divert the flow of any stream or damage or obstruct any spring on the said lands and hereditaments without the previous sanction in writing of Collector of the district (hereinafter referred to as the "Collector"). The Lessee shall at all times give such facilities as may be

required for public access to and enjoyment of springs and rights of way hereby reserved.

(6) (a) That the Lessee shall not establish any new market or haat on the said lands and hereditaments .

(b) That the Lessee and its managers and agents shall observe the rules published by the Board of Revenue with the approval of the State Government for the regulation of haats and markets existing in the tea gardens at the date of this lease.

(c) That except with the prior permission of the Collector, the Lessee shall not bring under cultivation of tea any land which was not under such cultivation at the date of commencement of the lease and shall not make any construction for use as factory, office-building or quarters for labourers on any land on which there was no such construction at such date; and where permission under this sub-clause is given by the Collector, the Lessee shall be liable to pay from the date of such permission such additional rent, over and above the rent herein reserved for the land brought under cultivation of tea or, as the case may be, the land on which construction is made, as may be determined by the Collector , in accordance with the provision of clause (a) of sub section (2) of Section 42 of the West Bengal Estates Acquisition Act , 1953.

(d) That the Lessee shall not leave any land comprised in a forest in a tea garden, if deforested in pursuance of any and for new plantation, unplanted for more than two years :

Provided that the Collector may extend the time limit on the merits of a case but in no case such extension shall exceed three years.

(e) That the Lessee/Lessees shall not fell trees in land comprised in a forest in a tea garden without prior permission of the State Government and if so required by the State Government, shall submit a plan for the maintenance and felling of trees.

(7) (a) That the Lessee shall maintain the boundaries of its tea garden clear of jungle and shall get them so cleared at least once a year not later than the end of February. It shall also maintain all the boundary marks in good condition.

(b) That the Lessee shall on being required so to do erect and maintain in good order at /its own expense all boundary lines and marks; provided that in the event of its failing or neglecting to carry out any necessary repairs within 30 days from the date of receipt of the notice from the Collector, the Lessor may repair the same and recover from the Lessee all costs and expenses thereof.

(c) That if, at any time, the Collector is of the opinion that the state of the boundary marks or lines is such that a re-survey of the area is necessary, he may direct such re-survey to be made, and may recover from the Lessee the costs of such re-survey.

(8) That if, on any such re-survey or otherwise, it shall be found that the Lessee is in possession of lands in excess of the said lands and hereditaments, the Lessor shall be entitled forthwith to recover possession of such excess area and the Lessee shall forthwith deliver over possession of the same. The Lessor may however allow the Lessee to continue in occupation of such excess area in which case such excess area shall be deemed to be included in this demise and the Lessee in such case shall be bound and liable to pay, in addition to the rent therein reserved, such rent for excess area as may be determined by the Collector in accordance with the principle laid down in Section 42 of the West Bengal Estates Acquisition Act, 1953 (Act I of 1954). The rent so determined for the excess area shall be payable from the date of granting or renewal of the lease or from the date from which the land is proved to have been occupied by the Lessee.

(9) That the Lessee shall at all times allow the Officers of the Government of West Bengal authorised on that behalf free and undisturbed access to the said lands and hereditaments for purposes of inspection, survey and otherwise.

(10) That the Lessee shall, in such form as may from time to time be prescribed by the said Government, furnish the Collector with full information as to births and deaths in the said lands and hereditaments and as to the progress of cultivation and outturn of tea.

(11) That the Lessee shall furnish proper and suitable accommodation for the residence of chaukidars, if any be found necessary to be appointed in such gardens to carry out the duties imposed under the West Bengal Panchayat Act, 1956.

(12) That the Lessee shall not sub-let the said lands and hereditaments or any part thereof :

Provided that lands comprised in the said lands and hereditaments may be licensed out for growing cardamom thereon, so, however, that in respect of any land so licensed out, the Lessee shall pay rent at the rate of fifteen rupees per acre but shall not realise from the licensee any fees exceeding by more than twenty-five per cent the amount of rent so payable by him.

(13) (a) That the Lessee shall not transfer, whether in full or in part, or club or amalgamate tea gardens without the formal sanction of the Collector :

Provided that except in cases where the provisions of the West Bengal Alienation of Land (Regulation) Act, 1960 (West Bengal Act XVI of 1960), apply, no such sanction shall be necessary for equitable mortgage of a tea garden with a Scheduled Bank by the deposit of title deeds. All such equitable mortgages shall, however, be reported to the Collector immediately.

(b) That the lease-hold interest shall be heritable.

(c) That in the case of a transfer of such lease-hold interest, whether in full or in part, the same shall be subject to the provisions of any law for the time being in force and applicable thereto and also subject to prior consent of the Collector.

(d) That every transfer, whether in full or in part or succession by inheritance or otherwise, or clubbing or amalgamation shall be registered in the Collector's office within two months of the date of transfer or succession or clubbing or amalgamation.

(e) That the transferee, other than by heritance, shall be required to enter into a fresh lease on payment of salami at the rate laid down in paragraph 1B of Schedule F of the West Bengal Estate Acquisition Rules, 1953 within three months of expiry of the unexpired period of lease;

(f) That if the transferee or successor by inheritance or the person clubbing and amalgamating the garden fails so to register the transfer or succession or clubbing or amalgamation, the Collector may at his discretion impose such fine not exceeding Rs. 20,000/-, as may appear to him reasonable.

(13A) That the running of a tea garden without valid lease agreement shall not be permissible and the Collector may, in his discretion, impose such fine, not exceeding Rs. 500/- per day, as the Collector may determine for unauthorised operation of a tea garden.

(13B) That if the Lessee fails to utilize the said lands and hereditaments for the purpose it was leased out, the Collector may, after giving the Lessee an opportunity of being heard, determine the lease.

(14) (a) That the Lessor may, without prejudice to any other right or remedy hereunder, forthwith determine this lease on breach of the provisions of clause (2), clause (12) or clause (13) hereof.

(b) That on breach of the provisions of clause (3) thereof, the Lessee/ Lessees shall on demand pay forthwith to the Collector such fine, not exceeding Rs. 100/- for every day during which such breach continues subject to a maximum of Rs. 5,000/- in the aggregate, as the Collector may determine.

(c) That on breach of the provisions of any of the clauses Nos. (5), (6), (10) and (11) hereof except sub-clause (e) of clause (6), the Lessee/ Lessees shall pay forthwith to the Collector such fine, not exceeding Rs. 500/- for every day during which such breach continues, subject to a maximum of Rs. 20,000/- in the aggregate, as the Collector may determine.

(d) That on breach of provisions of sub-clause (e) of clause (6), the Lessee shall pay, on demand, to the Collector a fine of Rs. 5,000/- for every tree felled. The tree/trees felled illegally without prior permission of the State Government shall be forfeited by the Collector.

(e) That if any breach of the terms and conditions hereof continues even after the levy of the maximum fine hereinbefore provided in respect thereof, this lease shall forthwith be determined.

(15) That on the expiration of the period of the lease or earlier determination thereof, the Lessee shall forthwith make over quite vacant and peaceable possession of the said lands and hereditaments to the said Collector on behalf of the Lessor.

(16)(a) That the Lessee shall be entitled to the renewal of this lease for a further period of 30 years and to successive renewals for similar periods, subject to the rules and the

terms and conditions of this lease and to such other terms and conditions as the State Government may, from time to time, consider it necessary to impose and include in such renewed lease or leases and subject further to such rent as may then be fixed, provided that such additional terms and conditions shall not be inconsistent with the law regulating such leases and shall not have retrospective effect.

(b) That all arrears of rents, costs, fines and other monies payable by the Lessee hereunder and all expenses in connection with inspections, survey and measurements may be recovered as a public demand under the Bengal Public Demands Recovery Act or any statutory modification thereof for the time being in force.

(c) That if at anytime the said lands and hereditaments cease to be used by the Lessee as tea gardens, the lease shall determine forthwith.

Schedule I

(Here set out a full description of the lands with reference to a plan, if any).

Schedule II

(1) Coal, minerals, precious stones and stone and quarries of every kind and all rights of way and other reasonable facilities as may be required for working, getting and carrying away the same.

(2) All rights of fishery in the streams, tanks and other waters on the said demised lands.

(3) A public and general right of way for all purposes over a strip of land 20 yards in width on both banks of every stream available in the opinion of the lessor at any time of the year for boat traffic.

(4) Free access at all times for the public to all springs on the said lands and hereditaments which shall in the opinion of the Lessor be necessary for the public use.

(5) A public and general rights of access to all public roads on the said lands and hereditaments , subject to the conditions that no easement can be claimed by the public in respect of the roads and that the Lessee shall have right on reasonable grounds to temporarily close or to divert such roads.

(6) Rights of ingress and egress over the said lands and hereditaments for all persons including the State Government to and from all lands surrounded by the said lands and hereditaments as may be possessed by any such persons or the State Government.

IN WITNESS WHEREOF the parties to these presents have hereto set and subscribed their respective hands on the day, month and year first above written.

SIGNED AND DELIVERED for and on behalf of the **LESSOR** by Mr. [•], duly authorized in this regard at [•] in the presence of:

SIGNED AND DELIVERED for and on behalf of the **LESSEE** by Mr. [•], its [•], pursuant to a resolution of its Board of Directors passed at its meeting held on [•] at [•] in the presence of:

SIGNED AND DELIVERED for and on behalf of the **CONFIRMING PARTY** by Mr. [•], [•], duly authorized by the Lessor by resolution dated [•] of its Board in this regard at **Kolkata** in the presence of:

**APPENDIX XV: PROFORMA BUSINESS TRANSFER
AGREEMENT**

BUSSINESS TRANSFER AGREEMENT

[•] 2014

BETWEEN

WEST BENGAL TEA DEVELOPMENT CORPORATION LIMITED

AND

[•]

This **BUSINESS TRANSFER AGREEMENT** is made on this [•]th day of [•]2014 at Kolkata:

BY AND AMONG:

WEST BENGAL TEA DEVELOPMENT CORPORATION LIMITED, a company incorporated under the Companies Act, 1956 and having its registered office at [●], Kolkata – 7000___, West Bengal, India (hereinafter referred to as “**WBDCL**”, or “**SELLER**”, as the context may desire, which expressions shall, unless repugnant to the context or meaning thereof, be deemed to include its successors and permitted assigns);

AND

_____, a company incorporated under the Companies Act, 1956/2013/ LLP incorporated under the Limited Liability Partnership Act, 2008 and having its registered office at _____, India (hereinafter referred to as “**PURCHASER**” or “**SELECTED BIDDER**”, which expressions shall, unless repugnant to the context or meaning thereof, be deemed to include its successors and permitted assigns);

“**Parties**” shall mean collectively the Seller and Purchaser. “**Party**” means Seller or the Purchaser individually, as the context may require.

WHEREAS:

A. The West Bengal Tea Development Corporation Limited (“**WBDCL**”) is a wholly owned undertaking of the Government of West Bengal. WBDCL has been promoted by

the Government of West Bengal through Commerce and Industries Department and incorporated as a Public Limited Company under the Companies Act, 1956 and as a Government Company in terms of Sec. 617 of the Companies Act, 1956 on 4th August 1976.

- B. The principle objectives of WBTDCL are to rejuvenate the Tea Industry in the State by assisting sick and closed tea gardens, to safe guard the future of the tea industry by avoiding concentration of ownership of tea gardens in a few hands and to protect the interest of workers etc.
- C. Now, the Government of West Bengal, in the public interest, in line with its policy of revival and restructuring of organizations, rejuvenation of tea gardens and for protecting the interest of the workers, decided to transfer the Tea Gardens under WBTDCL without retrenchment of existing workforce , through a competitive and open bid process, in compliance with applicable laws, established norms, applicable guidelines of Government of India and the Finance Department, Government of West Bengal.
- D. In furtherance of the same, WBTDCL floated two separate Requests for Proposal on _____, 2014, inviting bidders for the purchase of the tea gardens owned by WBTDCL at Darjeeling within Darjeeling district viz. _____ (collectively “**Darjeeling Tea Estates**”) and at Dooars within Jalpaiguri and Alipurduar districts (collectively “**Dooars Tea Estates**”) respectively.
- E. Request for Proposal being No. _____ dated _____ was floated for transfer of _____ Tea Estates.

- F. Upon evaluation of the various bids, Purchaser was selected as the highest bidder (“**Selected Bidder**”) in respect of _____ Tea Estates.
- G. The Selected Bidder was issued a letter of intent on _____, 2014. The Selected Bidder in terms of the RFP documents, have paid various sums to WBTDCL, details whereof is given below :
- H. In terms of the Request for Proposal, WBTDCL has agreed to cause the Government of West Bengal to grant a lease of the tea estates in respect of which the Purchaser is a Selected Bidder and simultaneously for the grant of such lease to surrender its existing lease in respect of such tea estates.
- I. In terms of the Request for Proposal, WBTDCL has also agreed to sell and the Purchaser has, agreed to purchase **ALL THAT** the business of the said _____ Tea Estate as a going concern and all plant machinery vehicles furniture fittings goodwill and other rights and interest therein in as is where as basis.
- J. The total consideration of Rs. _____ paid by the Selected Bidder / Purchaser in respect of the ____ tea estates has been agreed between WBTDCL and Purchaser to be apportioned in the following manner:

Name of Tea Estate	Total consideration	Apportioned towards Premium/ salami towards grant of lease	Consideration apportioned towards transfer of business

- K. This Agreement records Transfer of the business of the said tea estates by WBTDCL to the Purchaser.

NOW THEREFORE, in consideration of the premises and the mutual covenants set forth herein, the Parties agree as follows:

1. SALE AND PURCHASE

- 1.1. The Seller hereby sells and transfers with all attached or accrued rights with the benefit of the warranties and undertakings contained in this Agreement and the Purchaser hereby buys, with effect from this date (“**Transfer Date**”), the business of _____ Tea Estate as going concern together with the assets as listed in Schedule A (together the “**Assets**”) and employees as listed in Schedule B (together the “**Employees**”).

2. LIABILITIES

- 2.1. The sale and purchase of the _____ Tea Estate pursuant to Clause 1.1 shall not include any liabilities incurred by the Seller pertaining to _____ Tea Estate upto Transfer Date.
- 2.2. Nothing in this Agreement shall transfer or be deemed to transfer to the Purchaser any of the liabilities incurred by the Seller pertaining to _____ Tea Estate upto the Transfer Date and the Seller agrees to duly and properly perform assume and pay and discharge such Liabilities promptly when due.

3. CONSIDERATION

- 3.1. The total consideration for the purpose of the transfer of the business as a going concern of _____ Tea Estate shall be a sum of Rs...../-, (the “Purchase Price”), which has been duly paid by the Purchaser at or before execution of these presents, receipt whereof is being acknowledged by the Seller .

4. PASSING OF TITLE AND RISK IN THE BUSINESS OF _____ TEA ESTATE INCLUDING ASSETS AND THIRD PARTY CONSENTS

- 4.1. Title to those Assets transferred shall pass to the purchaser at the time of execution of this Agreement. Risk in all Assets shall pass to the Purchaser on the execution of this Agreement and the Purchaser shall be responsible for insuring the same from the execution of this Agreement.

- 4.2. Simultaneously with the execution of these presents, each Asset in _____ Tea Estate has been delivered to the Purchaser. To the extent that the Seller is able under law or the terms of any agreement to grant such rights to the Purchaser, the Seller shall (at the expenses of the Purchaser) at the request of the Purchaser, use all reasonable endeavors to procure that the Purchaser shall be entitled to the benefit, use and enjoyment of those Assets as against the Seller, to receive the income there from, and to have the right of enforcement of claims, if any.

5. PERFORMANCE OF CONTRACTS

- 5.1. Simultaneously with the execution of these presents, each contracts, agreements of the Seller pertaining to _____ Tea Estate has been delivered to the Purchaser. To the

extent that the Seller is able under law or the terms of any agreement to grant such rights to the Purchaser, the Seller shall (at the expenses of the Purchaser) at the request of the Purchaser, use all reasonable endeavors to procure that the Purchaser shall be entitled to the benefit, use and enjoyment of those contracts, agreement etc and to have the right of enforcement of claims, if any.

5.2. Subject to the following provisions of this clause 5, each of the Buyer and the Seller agrees to enter into appropriate agreement, if necessary, at the cost of the Purchaser, for assignment, transfer or novation which is necessary to enable the Purchaser to perform any contract (or the relevant part thereof) after execution of these presents or to enable the Seller to transfer the benefit or burden of any contract (or the relevant part thereof) to the Purchaser.

5.3. Nothing in this Agreement shall make the Purchaser liable for any claim, expense, loss or damage that have arisen or may arise in the future, as a result of the performance or non-performance of the contracts, prior to the transfer contemplated in this Agreement.

6. EMPLOYEES

6.1. The Seller has by a letter dated _____ communicated to each of the Employees by way of a letter/email intimating them of the intention to transfer their employment to the Purchaser with effect from the date of execution of these presents (“**Intimation Letter**”). A list of the Employees services of whom are to be transferred by the Seller to the Purchaser is listed in Schedule B. The Seller shall, on the date of execution of these present, communicate to each of the Employees by way of a letter/email intimating them of the transfer of their employment to the Purchaser with effect from this date.

- 6.2. With immediate effect from the date of execution of these presents, the Purchaser shall take over the employment of the Employees and shall be responsible for the due fulfilment and maintenance of all employee obligations, including their salaries, Provident Fund, other Employee Benefits, etc. From the date of execution of these presents. It is clarified that the Seller shall be responsible for the due fulfilment of all employee obligations, including their salaries, Provident Fund and any other employee benefit till the Transfer Date.
- 6.3. The employment of the Employees with the Purchaser shall be on terms and conditions of service including Employee Benefits which are no less favourable than the conditions applicable to them immediately prior to the Transfer Date. In particular, the Purchaser shall ensure that:
- (i) the continuity of services of the Employees shall not be or deemed to be interrupted by transfer of the _____ Tea Estate from Seller to the Purchaser;
 - (ii) the terms and conditions of service applicable to the Employees on and after transfer of the _____ Tea Estate shall not in any way be altered or modified to be less favourable to the Employees than those applicable to them immediately prior to the Transfer Date; and
 - (iii) the Purchaser shall be liable to pay to the Employees, in the event of their retrenchment/termination/lay-off on and from the Transfer Date,

compensation on the basis that the services have been continuous and have not been interrupted by transfer of the Business; and

- (iv) the Purchaser shall, immediately after the Transfer Date, be under an obligation to execute fresh employment contracts with the Employees, recording that their transfer to the Purchaser has taken place on the basis stated in this clause 6. Further, within 5 days of the Transfer Date, the Purchaser shall issue intimation letters intimating them of the takeover of the [●] Tea Estate by the Purchaser and that their employment shall continue with the Purchaser with effect from the Transfer Date.

7. LITIGATION

- 7.1. With effect from the Transfer Date, the Parties agree that all of the litigations involving the _____ Tea Estates for a period prior to the Transfer Date, shall be continued, prosecuted, defended and enforced by the Seller itself. For the avoidance of doubt, it is clarified that the cost and expenses incurred in continuing, prosecuting, defending and enforcing the _____ Tea Estates in such litigations shall be to the account of the Seller.
- 7.2. If pursuant to any such litigation, any penalties, interest or monetary liability of any nature whatsoever is required to be paid after the Transfer Date, all such penalties, monetary liabilities and interest payments shall be discharged by the Seller. Further, any

receivable realized out of the order, direction, decree or judgment passed in such litigation shall also pass to and be retained by the Seller.

- 7.3. Subject to the indemnification obligations contained in this Agreement, on and from the Transfer Date, save and except in relation to the aforementioned litigations, the Purchaser shall be responsible and liable for any claims/proceedings/litigation commenced, after the Transfer Date.

8. UNDERTAKING BY THE SELLER

- 8.1. The Seller undertakes to the Purchaser that it shall employ best efforts, even after the Transfer Date, to forward and transfer to the Purchaser, as soon as practicable and in any case within 7 (seven) days, any payments, documents, information, enquiries, communications or correspondences, which the Seller or any of its employees, receive, from time to time, in relation to the _____ Tea Estates. The Seller shall, until all such information is provided or payment is made to the Purchaser, hold all such information and/or payment in trust for the Purchaser.

9. REPRESENTATIONS AND WARRANTIES

- 9.1. Each party represents, severally and not jointly, to the other party hereto that as on the date hereof:

9.1.1. Such party has the full power and authority to enter into, execute and deliver this Agreement and to perform the transactions contemplated hereby and that such party is duly incorporated or organised with limited liability and existing under the Act;

9.1.2. This Agreement constitutes legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms;

9.1.3. Save as otherwise provided herein, the execution, delivery and performance of this Agreement by such party and the consummation of the transactions contemplated hereby will not (i) violate any provision of the organisational or governance documents of such party; (ii) conflict with or result in any material breach or violation of any of the terms and conditions of, or constitute (or with notice or lapse of time or both constitute) a default under, any instrument, contract or other agreement to which such party is a party or by which such party is bound; or (iii) violate any order, judgment or decree against, or binding upon, such party or upon its respective securities, properties or businesses;

9.1.4. It is duly organised and validly existing under the laws of India with power to own its assets, conduct its business as presently conducted, enter into, comply with and perform the obligations as set out in this Agreement; and

9.1.5. No order has been made or petition presented or resolution passed for the winding up or dissolution thereof of such party.

10. MISCELLANEOUS

10.1. No waiver of rights

No failure or delay by any party in exercising any claim, power, right or privilege hereunder shall operate as a waiver, nor shall any single or partial exercise of any such power, right or privilege preclude any further exercise thereof or of any other power, right or privilege. Any remedy or right conferred on a party for breach of this Agreement shall be in addition to and without prejudice to all other rights and remedies available to it.

10.2. Notices

Any notices, requests, demands or other communication required or permitted to be given under this Agreement (“**Notice**”) shall be written in English and shall be delivered in person, or sent by courier or by certified or registered mail or transmitted by facsimile or electronic mail and properly addressed as follows:

If to the Purchaser:

[•]

If to the Seller:

[•]

or at such other address as the party to whom such Notices, requests, demands or other communication is to be given shall have last notified the party giving the same in the manner provided in this Clause, but no such change of address shall be deemed to have been given until it is actually received by the party sought to be charged with the knowledge of its contents. Any Notice delivered to the party to whom it is addressed as provided in this Clause shall be deemed (unless there is evidence that it has been received earlier) to have been given and received, if: -

- (a) delivered in person, at the time of delivery;

- (b) sent by certified or registered mail, 15 (fifteen) Business Days after posting it;
- (c) sent by electronic mail, as per the provisions of the Information Technology Act, 2000;
- (d) sent by courier, upon receipt; and
- (e) sent by facsimile, when confirmation of its transmission has been recorded by the sender's facsimile machine.

10.3. Amendment

No amendment to this Agreement shall be effective unless in writing and executed by the Parties hereto.

10.4. Severability

If at any time any provision hereof is or becomes or is held to be illegal, invalid or unenforceable in any respect, the legality, validity or enforceability of the remaining provisions hereof shall in no way be affected or impaired thereby. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under Applicable Law.

10.5. Costs

The stamp duty and all other taxes (other than income tax of the Seller which shall be paid by the Seller alone) on and pursuant to this Agreement, and all documents executed pursuant thereto, for sale and transfer of the _____ Tea Estates by the Seller to the Purchaser and all other costs, charges and expenses for effecting such sale and transfer shall be paid and borne by the Purchaser. Provided however that, each party shall bear its costs towards fees and expenses of its accountants, auditors, consultants, legal counsels and tax advisors.

10.6. Governing Law and Jurisdiction

All disputes and differences that may arise between the Parties to this Agreement with regard to any obligations of the Parties to this Agreement or with regard to the interpretation of this Agreement or relating thereto or arising therefrom shall be referred to arbitration of a Sole Arbitrator to be appointed by WBTDC. The arbitration shall be governed by the laws of India and shall be conducted under the provisions of the Arbitration and Conciliation Act, 1996. The place of arbitration shall be Kolkata and the arbitration shall be conducted in English.

10.7. Assignment

This Agreement is personal to the Parties who shall not assign or transfer any right or obligation hereunder to any third party without the prior written consent of the other party.

10.8. Restrictions on action

Each party agrees that, except as expressly permitted in or required by this Agreement, neither party shall take any other action, which is inconsistent with the provisions of this Agreement.

10.9. Counterparts

This Agreement may be executed in any number of documents or counterparts, each in the like form and all of which when taken together shall constitute one and the same document, and a party may execute this Agreement by signing any one or more of such documents or counterparts.

11. INDEMNIFICATION

11.1. The Seller(s) (“Seller Indemnifying Party”) shall hereby agree to defend, indemnify, hold and save the Purchaser (“Purchaser Indemnified Party”) harmless from and against all direct actions, proceedings, claims, liabilities (including, but not limited to statutory liabilities), penalties, demands and costs (whether or not resulting from third party claims), including taxes, interests and penalties payable with respect thereto, out-of-

pocket expenses, attorneys' and accountants' fees and disbursements, legal action, suits, litigation or prosecution (together, the "Losses") which directly arise out of, or result from or are connected with any breach by the Seller of any of the provisions of this Agreement.

11.2. The Purchaser ("Purchaser Indemnifying Party") shall hereby agree to defend, indemnify, hold and save the Seller(s) (individually, a "Seller Indemnified Party" and, collectively, the "Seller Indemnified Parties") harmless from and against all the Losses which directly arise out of, or result from or are connected with any misrepresentation in, inaccuracy of or breach by the Purchaser of any of the provisions of this Agreement.

11.3. The rights of an indemnified party pursuant to this Clause 11 shall be in addition to, and not exclusive of, and shall be without prejudice to, any other rights and remedies available to such indemnified party at equity or law including the right to seek specific performance, rescission, restitution or other injunctive relief, none of which rights or remedies shall be affected or diminished thereby.

SCHEDULE A

List of Assets⁹

⁹ List of Assets in respect of each of the tea gardens will be available in the Data Room located at registered office of West Bengal Tea development Corporation Limited (SHYAMKUNJ, 12-B, Lord Sinha Road, 3rd Floor, Kolkata-700071). Bidders interested in carrying out due diligence of assets of the said tea gardens can access the list of assets on furnishing the receipt obtained against payment made for procuring the bid document (as specified in the Appendix I: Data Sheet hereof). Soft copies of the list of assets will also be provided to such bidders, if their e.mail ids are made available to WBTDC.

SCHEDULE B

List of Employees¹⁰

¹⁰ The number of employees for each garden has been provided in the Information Memorandum. The finalized list of employees would be provided at the time of execution of the Agreements.

APPENDIX XVI: UNDERTAKING AND CHALLAN FOR PF SUBMISSION

[Declaration on the Company Letterhead]

To
The Managing Director,
West Bengal Tea Development Corporation Limited
SHYAMKUNJ, 12-B, Lord Sinha Road,
3rd Floor, Kolkata - 700071

Dear Sir,

We, [.], having our registered office at [.] do hereby solemnly declare that the Provident Fund (PF), both employer's contribution and employees' contribution, for all the employees has been deposited by us with the regional Employees' Provident Fund Organization (EPFO), [address] till March 2014.

We declare that as on the date of the RFP there are no dues towards Provident Fund (PF), which are admittedly payable but have not been paid.

We hereby enclose a copy of the Challan for the payment of Provident Fund (PF) for the month of March 2014 in response to the RFP Document [Title and number] [dated].

Yours faithfully,

Date:

Place:

(Signature, name and designation of the authorised signatory)

(Name and seal of the bidder/ lead member)

Enclosed: [Challan for March 2014 PF Payment]